

Copyright  
by  
Elizabeth Anne Cozzolino  
2018

**The Dissertation Committee for Elizabeth Anne Cozzolino Certifies that this is the  
approved version of the following dissertation:**

**PARENTS ON TRIAL: JAILING FOR CHILD SUPPORT  
NONPAYMENT**

**Committee:**

---

Jennifer Glass, Supervisor

---

Christine Williams

---

Elizabeth (Becky) Pettit

---

Cynthia Osborne

**PARENTS ON TRIAL: JAILING FOR CHILD SUPPORT  
NONPAYMENT**

**by**

**Elizabeth Anne Cozzolino**

**Dissertation**

Presented to the Faculty of the Graduate School of  
The University of Texas at Austin  
in Partial Fulfillment  
of the Requirements  
for the Degree of

**Doctor of Philosophy**

**The University of Texas at Austin  
May 2018**

## **Acknowledgements**

Thank you to Anissa Johnson at the Office of Court Administrators who helped me gain access to my field sites. Thank you to Laura Jimenez from the District Clerk's Office in the jurisdiction I have called Riley County and Michael Lopez and Deborah Guzman from the Sheriff's Office in the jurisdiction I have called Verde County for giving me access to data. Thank you to Natalie Lewis for research assistance on part of this project. Thank you to Rob Carrington for helping me write a webscrape program in Python to get more data. Thanks to my contacts in the AG's office, Noelita Lugo and Bill Minor, for teaching me a lot about child support during my two summers in the Office of Family Initiatives earlier in my graduate career. Thanks also to Bill, Noelita, and Leah Leone for inviting me to present my work at the 2017 Texas Association of Domestic Relations Offices Meeting. It was very exciting to share these findings with people who could apply them!

Thank you to the National Science Foundation, the National Institutes of Health, the Graduate School, the Sociology department, and the Crime, Law, and Deviance working group for providing funding for this project. It would not have been possible without your financial support.

Thanks to my dissertation committee for their time, insight, and encouragement. First, thanks to Jennifer Glass, who is the biggest advocate for me and for this project. Every time I leave a meeting with her, I feel smart, capable, and confident. She's an

incredible advisor. Thanks also to Christine Williams, who asked me in 2012 whether child support is compensation for mothers' unpaid care labor. Without that question, this project wouldn't exist. Thanks to Becky Pettit, who taught me about the criminal justice system, and whose own project on legal-financial obligations helped me to understand what jail for child support nonpayment means. Thank you to Cynthia Osborne, resident expert on child support policy, who reminds me to think of the custodial mothers and children who lose out when dads don't pay. A paper that I started writing with Cynthia in 2013 taught me Stata. Here's hoping that fifth time's a charm! My committee - Jennifer, Christine, Becky, and Cynthia - show me what it means to have found your calling and excel in a challenging career. May I follow your example.

Thanks to other mentors from the department, especially Rob Crosnoe, who took a chance on a mostly-qualitative student and hired and trained me as an RA. I learned a great deal from Rob and from Rob's other students and former students with whom I collaborated (Kate Prickett, Julie Skalamera Olson, Chelsea Smith Gonzalez, Robert Ressler, Haley Stritzel, Lilla Pivnick, Liz Ackert, Carol Johnson, and more!). Mary Rose, Tetyana Pudrovska, Ken Hou-Lin, and Sarah Brayne all provided me with helpful guidance on parts of this project. My work also benefited from presentation in the Crime, Law and Deviance, Family Demography, and Fem(me) Sem working groups. Thanks to all who participated.

My colleagues in the Sociology graduate program were an invaluable source of ideas, support, and friendship. Brandon Robinson, for our Monday night walks. Carmen Gutierrez, who is literally a stand-up comedian. Chelsea Smith Gonzalez and Julie

Skalamera Olson, quantitative queens and office mates who helped me through many a Stata error. Thank you also to Shantel Buggs, Anima Adjepong, Emily Paine, Kathy Hill, and Christina Caramenis for your friendship.

Thanks also to Tatem Oldham, Chelsea Smith Gonzalez, Robyn Keith Rap, Rachel Behler, Ellyn Arevalo Steidl, David McClendon, Paige Gabriel, Kristine Kilanski, Katie Paschall, Sarah Crissey, Jessica Thornton Walker, and Natalie Hengstebeck – mentors and former colleagues here and elsewhere who showed me the limitlessness of my professional potential.

My non-sociology friends - Jake Jordan, Maggie Mora, Liza Goodstein, Ben Osheyack, Josh Leibowitz, Lauren Wendorf-Chandler, Ryan Fan - for swimming with me, dancing with me, drinking with me, and keeping me grounded in the real world.

For my parents, Tom and Marianne, for paying for my plane tickets home for the past six years, for not asking me too often when I was going to graduate, and for encouraging me to follow my passion wherever it led. For my brothers, Steve, Ben, and Charlie, for making me laugh and for making me proud.

For Carlos Santiago - our second first date was the day after I defended my dissertation proposal, so he's been here from when my dissertation was as small as a sesame seed through its development into a fully formed manuscript. Thanks for keeping me from working nights and weekends. Thanks for coming with me to the next place. I love you.

And finally, to my participants. Thanks to Judge Salinas and Judge Warren for letting me observe in your court and answering my questions about the process. I don't

know how you will feel about this dissertation, if you ever read it, but I hope it will make you think more critically about the enforcement system and more sympathetically about the litigants that you encounter. Thanks to the lawyers that I interviewed as part of this project, whom I call Lydia and Anne, for helping me make sure I understood the process. Thank you to my interviewees for sharing their feelings, experiences, and stories with me. Thanks, Alice, for your courage. I'd also like to thank the hundreds of folks whose cases I observed. I hope that this account of your struggles brings the problems of the system to light.

# **PARENTS ON TRIAL: JAILING FOR CHILD SUPPORT NONPAYMENT**

Elizabeth Anne Cozzolino, PhD  
The University of Texas at Austin, 2018

Supervisor: Jennifer Glass

**Abstract:** Although the child support enforcement and criminal justice systems have divergent purposes, they are connected when courts jail parents who owe child support debt. Jailing for child support nonpayment is one of many possible mechanisms of child support enforcement, but little is known about how frequently this tactic is used, against whom, and what the consequences are. Using a mixed methods design, this project explores the frequency, process, and consequences of jail for child support nonpayment. This dissertation is divided into four substantive chapters. In Chapter 1, I use data from the Fragile Families and Child Wellbeing Study (FFCW) to explore the prevalence of jail for child support debt in a national context, finding that about 14% of debtors go to jail for this debt by the time their child is nine years old. I propose two conceptual pathways into jail, and find that debt load and family complexity are major predictors of incarceration. In Chapter 2, I map the legal process of finding a parent in contempt and committing the parent to jail, focusing on the role of judicial discretion at three crucial decision points in the life of a case. Focusing on my field work in Riley County, Chapter



3 argues that child support officials police the work and family choices of nonresident parents in ways conceptually similar to how welfare policy controls recipients' behavior. Chapter 4 identifies how interpersonal gendered disputes translate into legal action in the child support enforcement process. This project has the potential to contribute to the national conversation about legal debt, family change, and criminal justice reform, as well as to inform laws and policies concerning child support, criminal justice, and the family. This project also has implications for the study of inequality. Through triangulating a range of novel data sources, this dissertation investigates how one legal process—punitive child support enforcement—affects people's lives and life chances.

## Table of Contents

Table of Contents .....	x
List of Tables .....	xi
List of Figures .....	xii
Methodological Forward.....	1
Introduction.....	7
Chapter One. Public Assistance, Relationship Context, and Jail for Child Support Debt.....	25
Chapter Two. Judicial Discretion in Child Support Enforcement Court .....	56
Chapter Three. Flat Broke without Children: Policing Nonresident Parents in Child Support Court.....	86
Chapter Four. Litigating Relationships: Gendered Conflicts in Child Support Court .....	105
Conclusion .....	134
Appendices.....	149
Bibliography .....	160

## **List of Tables**

Table 1. Key legal actions against child support debtors in Riley County. ....	18
Table 2. Individuals serving time for contempt in Verde County Jail. ....	19
Table 3. Extrapolation of county-level costs to estimate the cost of legal and carceral child support across the state of Texas. ....	21
Table 4. Descriptive statistics by subsample. ....	42
Table 5. Results from logistic regressions predicting formal child support order among families with nonresident dads. ....	46
Table 6. Results from logistic regressions predicting child support debt among families with formal child support orders. ....	48
Table 7. Results from logistic regressions predicting jail for child support nonpayment among families with child support debt. ....	50
Table 8. Characteristics of parents observed in Riley County. ....	90
Table 9. Characteristics of hearings observed in Riley County. ....	91
Table 10. Demographic summary of interviewees. ....	110

## **List of Figures**

Figure 1. Total individual recipients of AFDC and TANF, before and after welfare reform.....	12
Figure 2. Child support caseload by assistance status. ....	13
Figure 3. Percent of total child support collections retained by the state. ....	14
Figure 4. Cost/savings of the child support enforcement system to state and federal governments.....	16
Figure 5. Jail for child support nonpayment as a multi-step process.....	30
Figure 6. Selected characteristics of FFCW subsamples. ....	45
Figure 7. Process of jailing for child support nonpayment. ....	66
Figure 8. Sources of child support collections.....	145
Figure 9. Child support arrears and collections over time. ....	146

## **Methodological Forward**

The combination of data that I use in this dissertation is somewhat unconventional. Because I am investigating a topic about which little is known, I follow Harris (2016) in using what she calls a “kitchen sink” approach—incorporating “everything but the kitchen sink” into my analysis (p. 180). I am combining as many sources of data as I can, because each data source is imperfect. When these data sources are combined, however, they tell a much more complete story about the phenomenon under investigation.

### **Data sources**

There are five data sources that I use in this dissertation. The introduction draws on administrative data collected at two levels: first, national administrative data collected by the Association for Children and Families (ACF) and the Office of Child Support Enforcement (OCSE), and second, local administrative data that I obtained from two counties in Texas. The major strength of the ACF and OCSE data is that they provide information on the entire population of child support and public assistance cases over a period of about twenty years, allowing me to map trends in the number of people impacted and the amount of money spent. However, questions of magnitude and trends over time are about the only questions that they can answer. These data are not individual-level, and do not contain information on most the characteristics that I find to be important (e.g., income, relationship status, etc.). Nor can they answer any questions about the behavior or attitudes of the effected population.

The local administrative data come from two counties that I call Riley County and Verde County Texas. The strength of each data source is that it provides information on the entire population of child support cases (Riley County data) or jail inmates (Verde County data) during one full year of study. Like the OCSE and ACF data, these data allow me to answer questions of

magnitude—how many people went to jail for contempt of child support in 2015? How many orders for child support enforcement were filed in 2015? The limitations of these data are similar to the OCSE and ACF data as well. These local administrative data sources provide little information on the characteristics that I’m interested in, and they cannot answer any questions about behavior or attitudes. Moreover, I only observe each population for only one year—I cannot comment on how representative 2015 is compared with any other year before or since. Finally, these data sources come from two different counties, so they cannot be combined. I have to make a lot of assumptions while using these data (which I detail in the Introduction), and the estimates that I derive from them are not very precise.

The third data source that I use in this dissertation is the Fragile Families and Child Wellbeing dataset (FFCW). This is a national stratified sample of births occurring in large U.S. cities. (More detail about this study can be found in Chapter One, or at <https://fragilefamilies.princeton.edu/>). Unlike the administrative data sources described above, the FFCW provides a host of relevant variables that are important for understanding this phenomenon. This is a relatively large dataset with enough statistical power to do complex statistical models and find correlations between key variables. These quantitative data allow me to document statistical associations between variables, but cannot provide explanations as to *why* these associations occur. Another drawback of the FFCW is that selection is operating within the subsamples that I analyze, which I discuss in more detail in Chapter One. The findings from this chapter are not representative of the U.S. population as a whole. However, the individuals who make it into my subsamples appear to be representative of the at-risk population.

The fourth data source in this dissertation comes from ethnographic observation that I conducted in two Texas counties, described in Chapter Two. In 2016, I observed 250 child

support hearings in Riley County and Masters County. The strength of this observational data is that it provided rich detailed information about exactly what happens during child support hearings. I observed the behavior of judges, litigants, and attorneys, taking note of the arguments that they made, how they presented themselves, and the emotional tenor of their testimony. A sample size of 250 is also relatively large for a qualitative study. However, I only observed in two counties so I cannot speak to the generalizability of these findings to other Texas counties, or to courts in other states. I also only observed people who ended up in court—there may have been other litigants who owed child support but were able to avoid a court appearance. I cannot speak to their experiences.

The final source of data comes from in-depth interviews that I conducted with parents I recruited from Riley County court. More detail on the recruitment and sample can be found in Chapter Four. The strength of the interview data is that it provided rich, detailed information on people's narratives, perceptions, beliefs, and understandings of their experiences. My sampling methods were relatively systematic, as I recruited on the same day each week until I reached the desired sample size. One limitation is that I only spoke with 31 people, which is a relatively small sample size. Because I sampled out of child support court, I didn't hear the stories of anyone who did not show up to court. I also only sampled out of one county. These experiences are not necessarily generalizable to child support litigants in any other jurisdiction.

In the dissertation that follows, I generally move from large, national data to small, local data—and from a quantitative overview of how much something happens to a qualitative exploration of how it happens and how people feel about it. It isn't perfect, but we can think of the Riley County interviewees as sampled from the Riley County observations, which should be accounted for in the Riley County administrative data, which are aggregated up into the OCSE

and ACF data. These data sources are related, but not necessarily overlapping. Through combining the best available data together, I provide as comprehensive of an understanding of this phenomenon as possible.

### **Generalizability, reliability, and reflexivity**

The data sources that I use are imperfect, as described above, and therefore of limited generalizability. The most generalizable data source is the ACF and OCSE data, which are representative of all welfare and child support cases in the United States over the past 30 years. The Fragile Families data is less generalizable, because of the sample selection mechanisms that I detail in Chapter One. The local administrative data sources are generalizable only to the counties that they come from—the child support case data is generalizable to Riley County and the jail data to Verde County. The observational data is only generalizable to the courts of the judges I observed in the counties in which it was conducted. As mentioned above, it is not generalizable to the experiences of parents who never ended up in the court room. I believe that the interview data is reasonably generalizable to the experience of most litigants in Riley County, although those who agreed to be interviewed and showed up to the interview may be more advantaged than those who could not be interviewed because, for example, they were in jail awaiting their hearings.

With the proper data access, the quantitative data analysis that I've done should be replicable. I had to do a lot of work on the front end to get the data into an analyzable format, but someone doing the same analyses as me with the data coded the same way should get the same results. The issue of reliability is somewhat more complex for the qualitative data. In regards to the observational data, I was more of an observer than a participant in the courtroom. Most of the time, I quietly took notes on the proceedings. However, I interacted with the judges, attorneys,



and court personnel a fair amount. It's possible that my presence and my relationships with them could have impacted their behavior. The interview encounters, too, are determined by exactly *who* is conducting them. In-depth interviewing “focuses on the constructions narrators put on [their lived events], *in conversation with [the interviewer]*” (Lewin 2009:39, emphasis in original).

My particular embodiment—as a pre-professional white PhD student in her late twenties—likely shaped the qualitative data that I gathered. Because of the generous access that I was given in both field sites, I was frequently mistaken for an attorney or court official. I certainly looked like the court officials, dressed in business casual clothing and sitting close to the bench. Sometimes, during recesses, litigants would approach me to ask me questions, before I told them that I didn't actually work in the court. It's likely that the officials themselves perceived me as a peer—sometimes Judge Salinas would affectionately announce that the court's “resident doctor” was here today. I did nothing to dispute this during the observational phase, largely keeping my critiques of the system to myself.

As I shifted gears from observing in Riley County to thinking about how to recruit interview participants, my association with the court system became an object of worry for the judge. This concern almost stopped her from allowing me to recruit in the court. The disaster was averted after I worked with someone in the Office of Court Administrators to write a “letter of independence” to the judge and the Attorney General's Office that made it clear that I am not affiliated with the state in any way. Whenever I solicited recruits, I made it clear that I was an independent researcher from the University of Texas. Despite this speech, it's possible that some litigants remembered me from the earlier observational phase and associated me with the government anyway. This could have deterred some folks from agreeing to an interview.

My gender, too, shaped the recruiting and interviewing experience. Women were much more likely to agree to be interviewed by me than men were. After a few weeks of this, I began targeting my recruiting efforts towards men only, to better gender balance my sample. I was similar in age to many of the interviewees, in their twenties and thirties, and found easy rapport especially with women around my age. One of the interviews with a man who was about my age became awkward, when someone (presumably a girlfriend) called him during the interview and he had to assure her he wasn't on a date with me. Other interviewees asked me whether I had any children, and whether I wanted them someday.

Unlike the observational phase, when I kept my critiques of the system to myself, I sometimes disclosed my real feelings about the system to my respondents to help with rapport. This strategy seemed to work best with men who started out reticent, but opened up more once they realized that I was critical of the system too.

Like all face-to-face interactions, my embodiment impacted what I was able to learn from my research sites and respondents. Together with the other data sources that I collected—and with the caveats that I describe here and elsewhere—these data together present what I see as a relatively complete picture of jailing for child support nonpayment.

## Introduction

Although the child support enforcement and criminal justice systems have divergent purposes, they are connected when courts jail parents who owe child support debt. Jailing for child support nonpayment is one of many possible mechanisms of child support enforcement, but little is known about how frequently this tactic is used, against whom, and what the consequences are. Using a mixed methods design, this dissertation explores the frequency, process, and consequences of jail for child support nonpayment.

Contempt for child support nonpayment is ostensibly non-punitive—meant to coerce compliance with a court order, not to punish those who disobey (Cook & Noyes 2011). Courts maintain that, in cases of civil incarceration, prisoners “carry the [jail] keys in their own pockets” because they will be released once they pay (Mnookin 1981: 362). Most child support policy is based on the idea of the deadbeat dad: one who is able to pay his support, but unwilling. If the majority of noncustodial parents in child support court are “deadbeats,” jailing could be a rational response to this problem, forcing parents to pay their support in exchange for their freedom. If, instead, parents do not pay because they cannot afford to, the purpose of incarcerating them for nonpayment demands more investigation.

As part of this dissertation, I interviewed two defense attorneys—one private attorney and one public defender. I asked each of them whether they had ever represented parents who were “deadbeat dads”—able but unwilling to pay. Each said that this situation was rare. Lydia,<sup>1</sup> a white private attorney, could think of a handful:

Every blue moon, there’s usually a man who can pay. He’s not being able to see the child, so he says ‘Eff you.’... Rarely, I must say, I’ve come across three or four deadbeats, real deadbeats. People I almost don’t wanna represent, but that happens.

---

<sup>1</sup> All respondents and jurisdictions in this dissertation have been given pseudonyms to preserve anonymity.

Anne, a white public defender, could think of only two:

Of all the cases that I have represented, any type of enforcement of child support, I can think of two that I represented [who actually could have paid.]... I think the law was put in place on the assumption that you could pay your child support if you wanted to. Many of the people I represent couldn't pay it unless they won the lottery.

If Lydia and Anne are right, and most of the nonresident parents who go to jail for their child support are unable to pay, this brings about a whole host of questions. How did the system come to incarcerate poor parents for debts they cannot pay? Who goes to jail for this, and what sorts of factors increase one's risk of jail? What happens in the courtroom? How does gendered relationship conflict factor in? What are the consequences of this policy?

This dissertation aims to answer these questions. The outline of this chapter proceeds as follows. First, I review the child support system's *raison d'être*. What does the child support system aim to do? I divide the goals of the child support system into two categories: fiscal and social. First, I evaluate the system's fiscal goal of welfare cost recovery and provide an estimate of the cost of incarcerating parents for nonpayment. Turning to child support's social goals, I end the chapter with an outline of the dissertation that follows.

### **What is the child support system trying to do?**

Implemented in 1975 as part IV-D of the Social Security Act, the child support enforcement program was established “primarily as a method of reducing public expenditures on welfare” (Farrel et al., 2003, p. 1), in addition to “strengthen[ing] families by securing financial support for children from their noncustodial parent ... and helping ... families to remain self-sufficient and off public assistance” (Solomon-Fears 2013a, p.1). These goals can be divided into two broad categories: fiscal goals, and social goals. The fiscal goal of the child support system is welfare cost recovery and avoidance. The social goal of the child support system is “parental

responsibility”—making noncustodial parents contribute financially to their children. Of course, there is some overlap between these goals insofar as noncustodial parents’ child support contributions are seen as a driver of welfare avoidance, but nonetheless, there is conceptual usefulness in differentiating between these goals. Below, I focus on the fiscal goal of welfare cost recovery and avoidance.

In regards to child support’s fiscal goal, it is important to understand the two key ways that the child support and cash welfare systems are connected. First, receiving welfare leads to the automatic opening of a child support case, and requires cooperation with enforcement efforts (Josephson 1997). Unlike custodial parents without welfare involvement—who decide for themselves when and why to file for child support—welfare recipients have no choice but to cooperate with child support efforts. Any child support that the nonresident parent pays while the resident parent is receiving cash welfare<sup>2</sup> is kept by the government, and child support debt that accrues during the time a family is receiving welfare is owed to the government, not the custodial parent (Bartfeld 2003). This recovered child support is used to reimburse the state and federal government for welfare expenditures.

Because this money is assigned to the state, the state has the ability to seek enforcement of the child support order by any mechanism, including wage garnishment, tax intercept, and even contempt of court. The state can pursue these actions even if the custodial parent disagrees (Bartfeld 2003). Like with child support establishment, the welfare recipient has no choice but to comply with state enforcement efforts. In contrast, in child support orders without welfare

---

<sup>2</sup> Aside from a small pass through in some states (but cf. Meyer, Cancian, & Nam 2007).

involvement, the custodial parent can choose how hard she<sup>3</sup> wants to enforce the child support order, and can close the case or forgive debt as she sees fit (Bartfeld 2003).

The second way child support and welfare are connected is that child support is considered a means of welfare-avoidance to the state—providing families with child support is thought to help them reach economic self-sufficiency so that they do not need welfare, transferring costs from *public* assistance to *private* cash transfers from the other parent (Josephson 1997; Pirog & Ziolk-Guest 2006; Turetsky 1998; 2005). Thus, the government considers child support a type of welfare cost avoidance, and up to \$2.6 billion in indirect savings has been attributed to child support (Solomon-Fears 2012; Turetsky 2005).

Therefore, the main fiscal rationale behind child support enforcement is to reduce the cost of welfare through a) recovering the cost of welfare services from nonresident parents; and b) deterring welfare participation through the provision of child support. Yet, major demographic and policy changes have called into question how well the system meets this goal.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, commonly known as “welfare reform,” made major changes to the welfare system, transforming it from an open-ended entitlement to which all low-income custodial parents were eligible to a block grant program run by the states, with multiple eligibility requirements. To be eligible to receive assistance after welfare reform, mothers were required to seek employment and comply with child support enforcement (Collins & Mayer 2010; Hays 2004; Lens 2009). Failure to comply with work and child support requirements could make women lose their benefits. Even mothers who fully comply find their benefits expired after five years, since

---

<sup>3</sup> About 4 of every 5 non-custodial parents are dads (Census 2012), so I use “he/his” for non-custodial parents and “she/hers” for custodial parents throughout the dissertation for ease of understanding for the reader, unless otherwise specified. I discuss more about what happens when gender and custodial status do not align in this way at the end of Chapter Four.

welfare reform also instigated a lifetime assistance limit. These changes to welfare policy resulted in a drastic reduction in caseload, from about 5 million families in 1993 to 2 million families in 2011 (Loprest 2012).

At the same time, the child support caseload was undergoing significant demographic change. When the child support enforcement system was first implemented, most child support clients were divorced. Today, an increasing share have never been married (Case, Lin, & McLanahan 2003). Economic transformation, demographic changes, and increases in family complexity result in a child support caseload that may be less able to afford to pay child support than ever before (Sinkewicz & Garfinkel 2009). Indeed, Sorenson and Zibman (2001) estimate that about a third of nonresident parents who owe child support cannot afford to pay. Of these fathers, about two-thirds are Black or Latino (Mincy & Sorenson 1998). When child support is unpaid, it becomes a debt owed to either the custodial parent or the government. Ten years ago, half of all child support debt was owed to the government (OCSE 2004); today, the government share of child support debt has dwindled to 25% (OCSE 2014). An overwhelming majority of child support debt is owed by those with very low reported income. Only 17% of child support debt is owed by parents with reported annual incomes above \$20,000 (Sorenson et al. 2007). Of the remaining debt, about half (42%) is owed by parents with no reported income (Sorenson et al. 2007).

Given these changes in welfare policy and the demographic composition of the child support caseload, how well does child support enforcement recover the cost of providing cash welfare? Here, I reexamine the cost-recovery function of child support policy.<sup>4</sup>

---

<sup>4</sup> To answer these questions, I draw on publicly available government data collected by the Administration for Children and Families (ACF), a division of the U.S. Department of Health and Human Services. First, I aggregate historical data compiled by the Federal Office of Child Support Enforcement for their annual reports to Congress from 1992-2014. These data are available through the search function of the OCSE's website

## Evaluating the cost-recovery function of child support

Recall that PRWORA sought to reduce welfare spending in two ways: reducing welfare caseload and recovering the cost of welfare with child support payments. PRWORA did indeed shrink the welfare caseload greatly. Figure 1 graphs the AFDC/TANF caseload from 1975-2015. In 1975, there were almost 12 million individuals receiving AFDC. The number of recipients peaked in 1995, at slightly under 14 million, right before welfare reform. Following PRWORA, the welfare caseload fell by half in just five years, and has continued a slow descent ever since. In 2015, there were only about 3 million individual recipients of TANF.

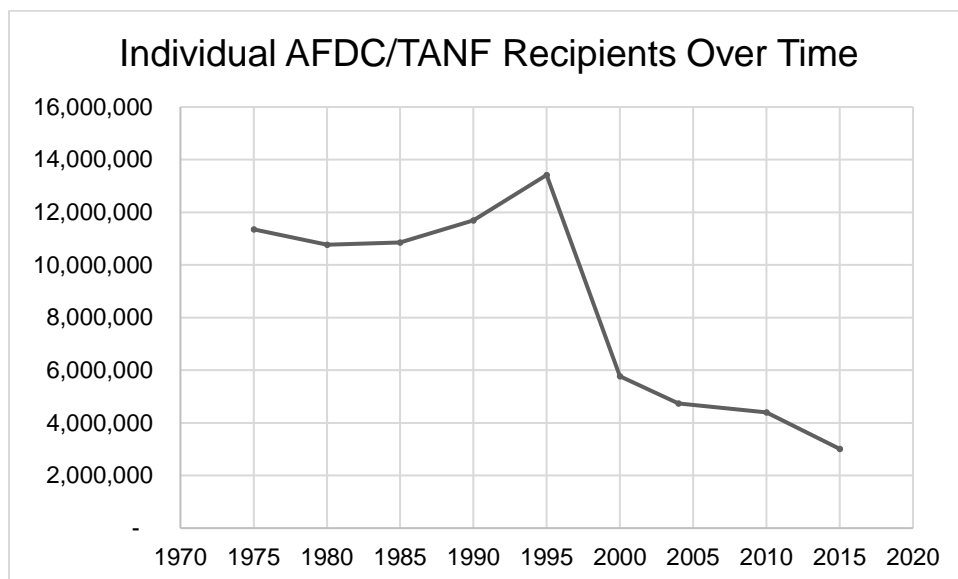


Figure 1. Total individual recipients of AFDC and TANF, before and after welfare reform.

Source: OFA.

---

(<https://www.acf.hhs.gov/css>). By hand, I downloaded and aggregated data on child support caseload, collections, and arrears from the OCSE's Annual Reports to Congress, with earliest available data beginning in 1992 ([https://archive.acf.hhs.gov/programs/ofa/data-reports/caseload/caseload\\_archive.html](https://archive.acf.hhs.gov/programs/ofa/data-reports/caseload/caseload_archive.html); <https://aspe.hhs.gov/system/files/pdf/167036/4spending.pdf>). In addition, I also compiled data from the Office of Family Assistance (OFA) on AFDC and TANF expenditures and caseload through the ACF-OFA archive (<https://archive.acf.hhs.gov/programs/ofa/data/archives.html>; <https://www.ssa.gov/policy/docs/statcomps/supplement/2005/9g.html>). I also draw on data from the Congressional Research Service (Solomon-Fears 2012) to focus on cost/savings of the child support enforcement system to state and federal governments.



This vast reduction in welfare caseload had significant implications for the child support caseload. Figure 2 graphs changes in the composition of the child support caseload over time. Before welfare reform, 45% of the child support caseload had a custodial parent who was receiving welfare (OCSE 1992). Three years after welfare reform, the share of child support cases currently receiving welfare had fallen to 20%. Today, only about 10% of the child support caseload has a parent who is currently receiving welfare although 40% of cases have a parent who is a former recipient.<sup>5</sup> Slightly more than half of the child support caseload has never received public assistance.

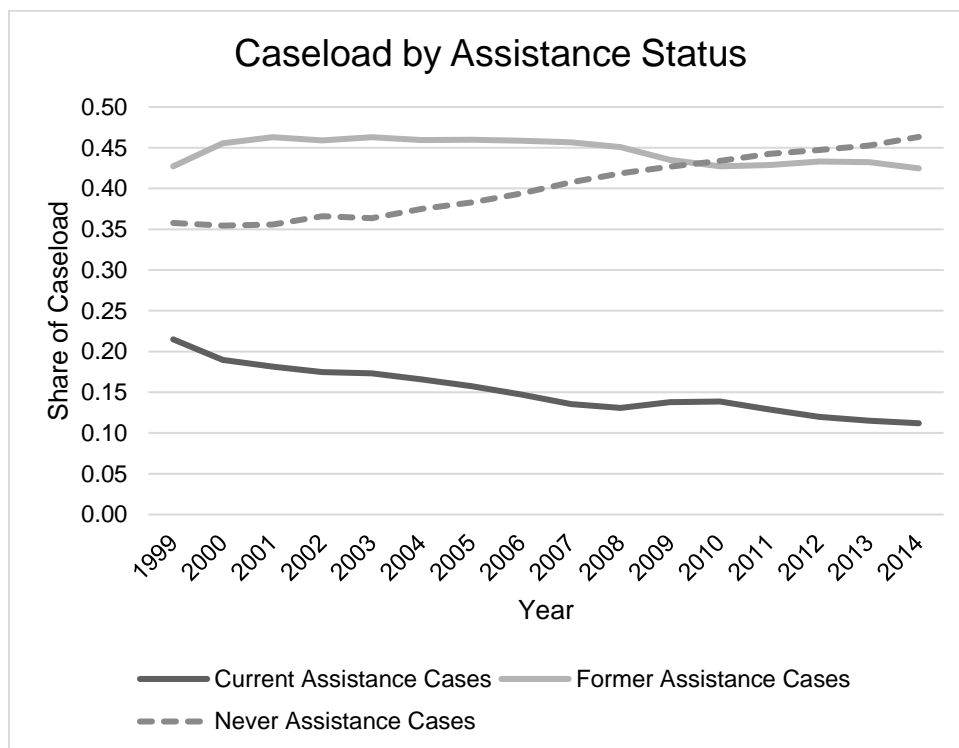


Figure 2. Child support caseload by assistance status.

Source: OCSE

<sup>5</sup> Figure 2 starts in 1999 instead of 1992 because of a change in OCSE documentation. Before 1999, cases were classified as welfare or non-welfare (with former assistance and never assistance cases grouped together in the non-welfare category); after 1999, cases were specified as current, former, or never assistance (Solomon Fears 2012).

Because the state keeps child support paid to families currently receiving welfare, changes in the composition of the child support caseload led to a decline in the amount of child support retained by the state. Figure 3 graphs the share of child support collections retained by the government over time, showing that it has fallen from almost 30% in 1992 to only about 5% today. Although welfare cases made up 45% of the child support caseload in 1992, they accounted for less than 30% of the collections; today, these numbers are 10% and 3%, respectively. This demonstrates that welfare-involved child support collections are disproportionately low compared to their prevalence in the caseload. Partners of welfare recipients pay less child support and owe high debts.

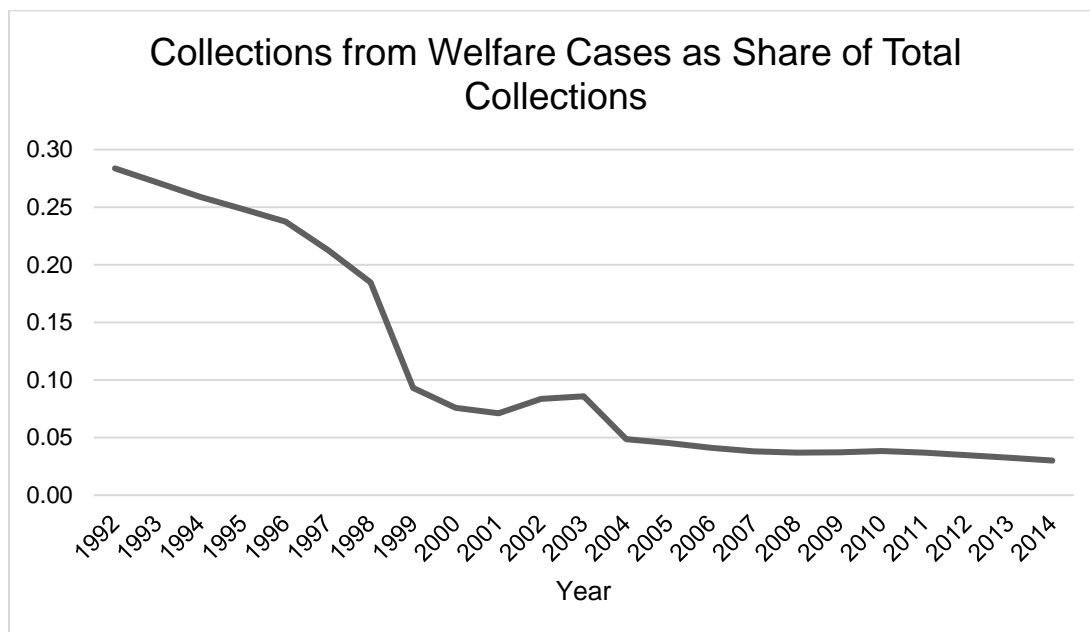


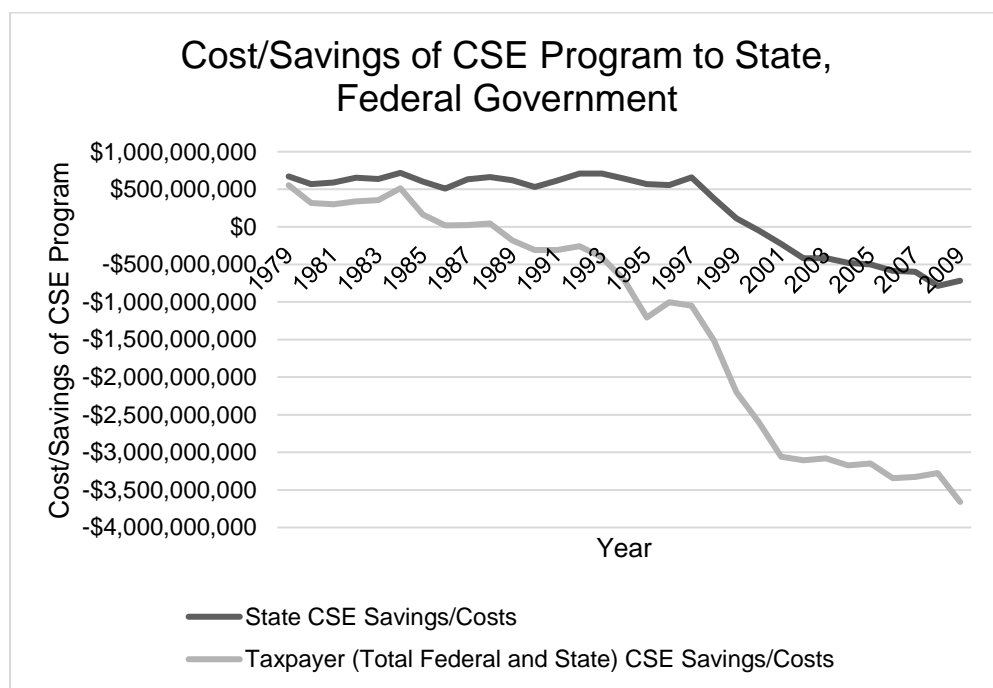
Figure 3. Percent of total child support collections retained by the state.

Source: OCSE.

Taken together, Figures 1, 2, and 3 demonstrate how the changing child support caseload has altered the state's ability to recover welfare expenditures through child support. In other

words, the first strategy for reducing welfare expenses (cutting caseload) undermined the second (child support collections recovering the cost of welfare).

Finally, I use data from the Congressional Research Service to examine the state and federal cost of the child support enforcement system. Until 1999, welfare cost recovery generated revenue for states because the cost of recovering child support was less than the amount of assigned child support that states retained (Solomon-Fears 2012). Since then, however, assigned child support payments have not drawn a profit. Figure 4 graphs the cost and savings to state and federal governments of the child support enforcement program over time. This shows that child support no longer recovers the cost of cash welfare for either the federal or state governments, even as welfare caseload (Pirog & Ziolk-Guest 2006), and subsequent costs, have declined.<sup>6</sup>



<sup>6</sup> This is probably an underestimate of the economic irrationality of the cost-recovery mechanism. In 2015, only 25% of TANF expenditures were made on direct cash assistance to poor families (Schott et al. 2015).

Figure 4. Cost/savings of the child support enforcement system to state and federal governments.

Source: Solomon Fears 2012.

### **The cost of jailing for child support nonpayment**

Above, I have demonstrated that the child support enforcement system no longer meets its goal of recovering the cost of welfare provision. Yet, incarcerating parents for unpaid child support could be economically irrational in its own way. To my knowledge, there are no existing estimates of how much it costs to incarcerate parents for their child support nonpayment. Using the best available county-level data, here I provide a back-of-the-envelope calculation of this cost.

The process of incarcerating someone for child support nonpayment requires a number of legal actions and motions. These result in court costs that are not typically accounted for in the cost-effectiveness measures that the state child support agency reports to the federal OCSE. In Texas, the child support agency that prosecutes noncustodial parents is a division of the state Attorney General's Office. But, Child Support Courts are funded separately from the Attorney General's Office, and therefore are not counted as an administrative expense of the child support agency (OCA 2015).

To estimate the cost of the legal process of jailing someone for child support debt, I use two sources of government data. The first comes from the Riley County District Clerk's office. I obtained individual-level records for the three most critical legal motions filed in child support enforcement cases for the calendar year 2015. The first motion of interest is the number of capias arrest warrants ordered against child support debtors. These are issued when a parent is ordered to appear in court on a child support action and fails to appear. During the calendar year of 2015, there were 2,195 capias arrest warrants issued by the Attorney General's Office against child

support debtors. The second legal action of interest is the motion for enforcement, the first legal motion filed in the process of incarcerating someone for child support nonpayment. During calendar year 2015, there were 698 motions for enforcement filed by the Attorney General's Office against child support debtors. The third motion of interest is the motion to revoke child support probation. These motions most closely approximate the number of people who are sentenced to jail for child support nonpayment. In the calendar year of 2015, there were 301 revocation motions filed by the Attorney General's Office against child support debtors. This is 43% of the total enforcement actions filed during the same time period.<sup>7</sup> Of the 301 individuals against whom revocation motions were filed in 2015, 242 (80% of the total) have either had a warrant out against them or had bonded out of jail at some point during the life of their case.<sup>8</sup>

One way to approximate the cost of these legal motions is to examine the legal fees that are associated with these legal actions. Some legal fees are passed on to the litigants, meaning that those against whom these motions are filed must repay the state some portion of the cost of executing each legal action (Katzenstein & Waller 2015). Examining these fee schedules can shed light on how much these legal motions cost. Yet, government officials may not be able to pass the full cost of these motions onto litigants, so these estimates provide a low-bound of the cost of the legal process of jailing someone for child support debt. A motion for contempt is associated with a fee of \$65, as is a motion for enforcement (OCA 2014). In family law cases, the contempt fee drops to \$15 (OCA 2014), as limited by statute (Texas Family Code §110.002).

---

<sup>7</sup> This doesn't necessarily mean that these are the same people, however—the legal process of enforcing child support payment through jail time is lengthy, and could take longer than a year. However, since every motion for probation revocation is preceded by a motion for enforcement, this provides a snapshot approximation of how many enforcement actions are followed by probation revocations.

<sup>8</sup> These individuals have either bonded out of jail or have had an arrest or capias warrant out against them sometime in the history of their case. These data come from online searches of District Court Records for each individual cause number of those against whom a 2015 revocation action was filed. I thank Natalie Lewis for her research assistance on this.

However, it is reasonable to believe that filing this motion still *costs* the state at least \$65, even if they are only able to pass \$15 of this cost on to the litigants. Since both the motion for contempt and the motion for enforcement are each associated with a \$65 fee that can be passed to the litigant, I therefore assume that each of these legal actions each cost the state \$65. Combined, therefore, the legal prerequisites of jailing for child support nonpayment amounted to an expense of more than \$200,000 for Riley County in 2015. Table 1 provides a summary of these legal actions.

	N	Cost	Sum
Capias	2195	\$ 65.00	\$ 142,675.00
Motion for Enforcement	698	\$ 65.00	\$ 45,370.00
Motion to Revoke	301	\$ 65.00	\$ 19,565.00
Sum	3194		\$ 207,610.00

Table 1. Key legal actions against child support debtors in Riley County.

These court costs do not include the cost of holding someone in jail for child support. To estimate this value, I use a second source of data. These data come from reports of individuals entering and leaving Verde County jail. I acquired these data from an open records request to the Verde County Information Technology Department, for one calendar year from June 12, 2015 to June 12, 2016. Since child support nonpayment results in a charge of contempt, I am pulling all of the contempt citations during that year period. In all, 586 individuals were jailed for contempt of court in Verde County during the period of study.

Yet, not all of these contempt of court findings were necessarily for child support nonpayment. Some of these individuals could have been held in contempt of court for other reasons, such as being disrespectful to a Judge or the nonpayment of another fine or fee. Verde County has two Associate Judges who are tasked with hearing child support enforcement cases. Thus, it is a fair assumption that anyone charged with contempt who was released on the court

order of one of these two Associate Judges were held for child support. Of the 586 individuals held in contempt of court, 270 of them were released on the order of a child support judge, about 46% of the overall contempt sample. However, more than 270 might be held for child support, we just cannot know for sure. Therefore, the number who are released on a IV-D Associate Judge's court order provides the lower bound estimate of how many people are held for child support nonpayment. Table 2 provides details on the Verde County data.

	All contempt	Child support indicator
Total days in jail	27262	16311
Average cost per person per stay (low bound)	\$ 1,442.12	\$ 1,872.71
Average cost per person per stay (high bound)	\$ 2,744.68	\$ 3,564.19
Total cost (low bound)	\$ 845,122.00	\$ 505,641.00
Total cost (high bound)	\$ 1,608,458.00	\$ 962,349.00
N	586	270

Table 2. Individuals serving time for contempt in Verde County Jail.

To calculate the cost of jailing for contempt, I used various estimates of the cost of a night in jail in Verde County. The lowest estimate is \$31/night and the highest estimate is \$59/night.<sup>9</sup> I report both the high and low bounds for both the full contempt sample and the child support indicator contempt sample. Taken together, the minimum cost of jailing for child support nonpayment in Verde County from June 2015 to June 2016 ranged from \$505,641 to \$962,349 for the sample that was released on the order of a child support Associate Judge. More broadly, the total cost of jailing for contempt in Verde County from June 2015 to June 2016 ranged from \$845,122 to \$1,608,458.

---

<sup>9</sup> The first estimate comes from a 2014 news story and the second comes from a 2008 government report. For confidentiality reasons, I don't cite these, but I will make these citations available upon request.

Because these data sources come from two different counties, we can't exactly combine them to estimate the total cost of jailing someone for child support nonpayment. But, if we assume constant rates of legal motions and incarceration for single parent families across the state of Texas, we can derive cost-per-capita and extrapolate to estimate the cost of these legal motions to the state as a whole.<sup>10</sup> These estimates are displayed in Table 3. In sum, I estimate the cost of legal and carceral child support enforcement in Texas in 2015 to be somewhere between \$12.1 and \$27.7 million.<sup>11</sup>

---

<sup>10</sup> The assumption that rates of legal motions and incarceration are constant across the state may not be empirically true. However, in the absence of publicly available state wide data, this is the closest possible estimate.

<sup>11</sup> Again, this estimate omits other costs to the child support system that I could not obtain data on, such as service process for orders to appear in court, the cost of booking and processing child support debtors once they've been arrested, the overhead of running child support specialty court, including Associate Judge's salaries, among other possible expenses.



	Verde		Riley		Texas	
	All contempt	Child support indicator	All contempt	Child support indicator	All contempt	Child support indicator
Number of single parent families <sup>12</sup>	80,000		50,000		1,151,578	
Total cost of legal process	\$ 332,176.00	\$ 332,176.00	<b>\$ 207,610.00</b>	<b>\$ 207,610.00</b>	\$ 4,781,582.17	\$ 4,781,582.17
Cost of legal process per capita	\$ 4.15	\$ 4.15	<b>\$ 4.15</b>	\$ 4.15	\$ 4.15	\$ 4.15
Total cost of jailing (low bound)	<b>\$ 845,122.00</b>	<b>\$ 505,641.00</b>	\$ 528,201.25	\$ 316,025.63	\$ 12,165,298.78	\$ 7,278,563.14
Cost of jailing per capita (low bound)	<b>\$ 10.56</b>	<b>\$ 6.32</b>	\$ 10.56	\$ 6.32	\$ 10.56	\$ 6.32
Total cost of jailing (high bound)	<b>\$ 1,608,458.00</b>	<b>\$ 962,349.00</b>	\$ 1,005,286.25	\$ 601,468.13	\$ 23,153,310.58	\$ 13,852,749.21
Cost of jailing per capita (high bound)	<b>\$ 20.11</b>	<b>\$ 12.03</b>	\$ 20.11	\$ 12.03	\$ 20.11	\$ 12.03
Sum (low bound)	\$ 1,177,298.00	\$ 837,817.00	\$ 735,811.25	\$ 523,635.63	\$ 16,946,880.95	\$ 12,060,145.32
Sum (high bound)	\$ 1,940,634.00	\$ 1,294,525.00	\$ 1,212,896.25	\$ 809,078.13	\$ 27,934,892.76	\$ 18,634,331.38

Table 3. Extrapolation of county-level costs to estimate the cost of legal and carceral child support across the state of Texas.<sup>13</sup>

<sup>12</sup> The population of single parent families for each county and for Texas as a whole comes from the 2010 American Communities Survey (ACS). Accessed via: <http://www.socialexplorer.com/>. To retain anonymity, Verde and Riley County single parent family values are rounded to the nearest 10,000.

<sup>13</sup> Note: Bold values come from the Verde and Riley County data shown in Tables 1 and 2, or are per-capita costs derived from these original values in Tables 1 and 2. Per capita cost values are derived as the total cost divided by the number of single-parent families in each county. Total cost values not displayed in bold are estimates derived from multiplying the per-capita cost by the number of single parent families.

Together, the costs of the legal process of jailing for child support—and the cost of housing a child support debtor in jail—represent a substantial amount of money. Jail time also increases child support debt through continuing child support orders even while an individual is incapacitated and cannot earn money (Reynolds et al. 2009).

Finally, existing evidence suggests that jail is not an effective way to recover child support debt. Less than 2% of child support collections are associated with incarceration or the threat of incarceration for child support nonpayment (Solomon-Fears, Smith, & Berry 2012).<sup>14</sup> This has led government entities to discourage the use of jailing for child support nonpayment (Solomon-Fears, Smith, & Berry 2012). However, my data demonstrate that this practice continues in many jurisdictions, including the Texas counties that I observe.

### **The dissertation that follows**

If, as we have seen above, jailing for child support debt is not an effective method of cost recovery—and, indeed, raises the price of debt recovery—why do officials continue to pursue this tactic? In the dissertation that follows, I explore the meaning of incarceration for child support nonpayment, its prevalence, its process, and its consequences.

In this introduction, I have explored the fiscal motivations behind child support policy, finding it to be economically ineffective at recovering the cost of welfare. But what of child support's social goal—promoting “parental responsibility” for children? The rest of this

---

<sup>14</sup> In 2014, Texas collected more than \$3.8 billion in child support. 1.9% of this amount is equal to about \$73 million, while my highest cost estimate is only about \$28 million. One could argue that this means jailing—though expensive—is still cost-effective. However, there are problems with this line of reasoning. First, we don't know how much of the \$73 million in collections is associated with jailing as opposed to the threat of jail—something that Solomon-Fears, Smith, and Berry (2012) combine in their analysis. Second, it's unclear that those who pay when threatened with jail time are similar in characteristics to those who serve jail time. Third, my cost estimate omits a number of other significant costs, including the cost of serving someone with a court order, the cost of arresting and booking someone, and the overhead costs associated with child support enforcement court. In order to assess whether this is truly cost-effective, we need more publicly available data on child support enforcement.

dissertation looks at the complexity of this issue, including what parents, prosecutors, and judges expect from nonresident parents.

The dissertation proceeds as follows. Chapter 1 provides a quantitative overview of jailing for child support nonpayment. In this chapter, I use data from the Fragile Families and Child Wellbeing Study (FFCW) to explore the prevalence of jail for child support debt in a national context, finding that about 14% of debtors go to jail for this debt by the time their child is nine years old. I propose two conceptual pathways into jail, and find that debt load and family complexity are major predictors of incarceration.

Chapter 2 moves into the courtroom, where I draw upon court observation of 250 child support hearings across two Texas jurisdictions. Here, I focus on the role of judicial discretion at three key moments in a child support enforcement case: whether or not a parent is found indigent and provided with a court-appointed attorney, whether or not a parent is granted lower bond so he can be released while he awaits trial, and whether or not a parent is given another chance to pay his debt before being ordered to serve out his sentence. I find that *whose* courtroom a parent ends up in has significant consequences.

Chapter 3 focuses on one of my two field sites to look at how one judge polices the earning, spending, and family decisions of the nonresident parents in her court, enforcing her normative parenting standards through punishing parents who don't comply. Unlike those outside the child support system—who make the same personal decisions every day—the parents who end up in child support court are subject to state sanction about these choices.

Chapter 4 draws on twenty-nine in-depth interviews that I conducted with parents that I met in court. This chapter demonstrates that parents perceive child support court as an arena in which to play out gendered relationship conflict. Within a racially diverse group of mostly poor

and working-class mothers and fathers, a range of sometimes contradictory power dynamics can land parents who don't pay in jail.

Finally, the Conclusion presents some consequences of this policy on the lives of those entangled in this system. In this section, I summarize the major arguments of this dissertation, point to the major dysfunctions that exist in the system today, and offer policy recommendations.

## **Chapter One. Public Assistance, Relationship Context, and Jail for Child**

### **Support Debt<sup>15</sup>**

#### **Introduction**

Previous studies of poverty governance (Beckett & Western 2001; Sugie 2012) have focused on how the service provision and punishment functions of the state—conceptualized, respectively, as the state’s “left” and “right” hands—work together in simultaneous welfare state retrenchment and criminal justice expansion (Wacquant 2009). Yet, less attention has been paid to a third institution that bridges the gap between the welfare and criminal justice systems, shading into both at each end – child support enforcement. Child support enforcement is connected to the welfare system through the assignment of child support payments to the state when parents receive public assistance (Coven 1997). Child support enforcement also feeds into the criminal justice system, as noncustodial parents (NCPs) who fail to pay their court-ordered child support payments can be found in contempt of court and incarcerated for their failure to pay (HHS 2002). Researchers have likened jailing for child support nonpayment to a modern form of debtor’s prison, as many who go to jail for this reason may be unable to afford to pay their child support (Patterson 2008). Jailing for child support nonpayment is just one of many mechanisms of child support enforcement, but little is known about how frequently this tactic is used, or against whom.

In this spirit, this study investigates who goes to jail for child support nonpayment. Using longitudinal data from four waves of the Fragile Families and Child Wellbeing Study (FFCW), this chapter examines how noncustodial parents find themselves at risk of being sent to jail for their child support debt. Child support debt exceeded \$114 billion in 2014 (OCSE 2014a). About

---

<sup>15</sup> This chapter has been published as a journal article, as Cozzolino (2018).

a quarter of all child support debt is owed to the state to reimburse welfare payments while the remaining 75% is owed to the child's custodial parent (OCSE 2014b). With this in mind, I identify two conceptual pathways into jail for child support nonpayment—one instigated by the state against NCPs whose children have received public assistance, and the other instigated by the child's custodial parent. I examine how each pathway—public assistance involvement and relationship context—influences a nonresident parent's risk of being jailed for child support nonpayment.

This study has theoretical, empirical, and policy implications. Theoretically, this investigation of jailing for child support nonpayment bridges the gap between studies of welfare state retrenchment and the criminal justice system, illustrating how this third institution contributes to the governance of social marginality for an increasing portion of the population. The child support enforcement system also constitutes part of the “shadow carceral state,” as parents jailed for the civil offense of child support nonpayment do not receive the same due process protections afforded to those accused of criminal offenses (Beckett & Murakawa 2012; Patterson 2008). Empirically, I provide national estimates of how many people are incarcerated for their child support debt, and what factors shape the risk of jail. To my knowledge, the only existing estimates of jailing for child support nonpayment are on the state or county-level (Chambers 1979; Cook 2015; May & Roulet 2005). In regards to policy, this study has ramifications for child wellbeing. Parental criminal justice involvement is associated with negative outcomes for children (Turney 2014; Wakefield & Wildeman 2014; Wildeman 2010). One of the aims of the child support enforcement system is to improve child wellbeing by increasing the support of nonresident parents (Josephson 1997), something that could be compromised when jailing is the chosen tactic for child support enforcement.

## Literature Review

Founded with the intention of welfare cost recovery and carrying a sanction of incarceration for those that do not pay, the child support enforcement system exercises both the left and the right hands of the state (Wacquant 2009) at different moments. This study contributes to larger discussions of poverty governance by investigating the child support enforcement system's connection to both the welfare and criminal justice systems.

### *Poverty Governance: Incarceration, Welfare and Child Support Enforcement*

Studies of prisoners and welfare recipients have noted the similarities between these two populations, which are disproportionately low-income, less educated, and nonwhite (Western & Wildeman 2009; Soss 1999). Theorists have identified an increasingly punitive and paternalist approach to poverty governance (Beckett & Western 2001; Soss, Fording, & Shram 2008), which explains the simultaneous decline of welfare rolls and expansion of the criminal justice system. Moreover, research suggests that a disproportionate share of public assistance recipients have incarcerated partners (Ovwigbo et al. 2005), and that parental incarceration is associated with the receipt of some, but not all, public assistance programs (Sugie 2012).

In addition to the overlap between the welfare and criminal justice systems, there is also substantial overlap between the institutions of child support enforcement and the criminal justice system. This overlap occurs at two points – first, many inmates who have committed criminal offenses accrue child support debt during their incarceration, and second, incarceration is one possible sanction for failure to pay child support. Parents with incarceration history make up a disproportionate share of those owing child support debt (Ovwigbo et al. 2005). While recent research has examined the legal debt that accompanies incarceration and its ramifications for social inequality (Harris 2016; Harris, Evans & Beckett 2010), less attention has been paid to the

role of child support debt for former inmates. Yet, child support debt is estimated to be the highest debt that former inmates owe upon release (Reynolds et. al 2009).

Parents who fail to make their court-ordered child support payments can end up in jail through three possible mechanisms: criminal nonsupport, willful interstate evasion of child support,<sup>16</sup> and civil contempt of court for failure to pay court-ordered child support. Research suggests that civil contempt of court is the most common mechanism (Cook 2015). Contempt of court is a charge that ostensibly aims to coerce compliance rather than punish behavior, as parents can be released upon payment (Patterson 2008; Cook & Noyes 2011). This offense is classified as civil, requiring fewer safeguards than criminal offenses (HHS 2002). Jailing for contempt of court constitutes part of the “shadow carceral state,” an extension of state power to detain beyond the traditional criminal context (Beckett & Murakawa 2012). Under the shadow carceral state, institutions that have not been considered part of the traditional criminal justice system—such as child support enforcement courts—acquire the capacity to detain. Few prior studies have empirically sought to figure out how many people are sent to jail for child support nonpayment, and most have estimated this phenomenon on a state or local level (Chambers 1979; Cook 2015; May & Roulet 2005). Therefore, the first aim of this chapter is to show how many child support debtors spend time in jail for their failure to pay.

The child support enforcement system is also intertwined with public assistance provision. Eligibility for welfare can be revoked if recipients do not conform their work and family behavior to welfare policy prescriptions (Hays 2004; Collins & Mayer 2010). Among these is the requirement that welfare recipients comply with child support enforcement efforts (Josephson 1997). When a parent applies for TANF or Medicaid, the state automatically opens a

---

<sup>16</sup> See 18 U.S. Code § 228 (DOJ 2012).



child support order on her behalf so that child support collections can reimburse the state for the cost of its welfare provision (Coven 1997; Roberts 2001). This policy is an example of welfare state retrenchment, a transference of costs from the *public* in terms of government-provided assistance, to *private* cash transfers from the parent who lives apart from the child (Alexander 2005; Josephson 1997). When parents fall behind on their child support payments and accumulate debt, those with family public assistance history find that the state owns some portion of their child support debt (Solomon Fears 2012).

Family public assistance history, therefore, shapes the child support enforcement process. When child support debt is owed to the state, the state can proceed in efforts to collect on this debt even if the custodial parent does not agree (HHS 2002). About half of the child support caseload consists of families with a history of current (10%) or prior (40%) welfare receipt (OCSE 2014a).<sup>17</sup> Child support debt is huge in magnitude, totaling more than \$114 billion in 2014, and about 70% of the 15 million open child support cases owe debt (OCSE 2014a). About a quarter of all child support debt is owed to the state, the other 75% is owed to the child's custodial parent—usually the mother (OCSE 2014b). Many custodial parents are owed child support debt, but they may not all pursue this debt. A mother might seek to enforce child support against a noncustodial parent when relationship quality is low, or when either parent has moved on with a new partner or new children. With this in mind, I identify two conceptual pathways into jail for child support nonpayment—one instigated by the state against NCPs whose children have received public assistance, and the other instigated by the child's custodial parent.

---

<sup>17</sup> Since Medicaid is a much bigger programs in terms of receipt than TANF (Sugie 2012), the number of child support cases with Medicaid involvement is likely much higher – however, caseload by Medicaid status is not reported by the OCSE (OCSE 2014a).

Going to jail for child support nonpayment is a multistep process (See Figure 5). For a nonresident parent to be at risk of going to jail for child support nonpayment, he<sup>18</sup> must live apart from the child’s mother, have a formal child support order and owe child support debt. The second aim of this chapter is to see how these different pathways shape the risk of jail for child support nonpayment. I analyze how the public assistance and relationship context pathways operate to move a noncustodial parent through each progressive step of the process—having a formal order, accumulating child support debt, and finally going to jail for this debt.

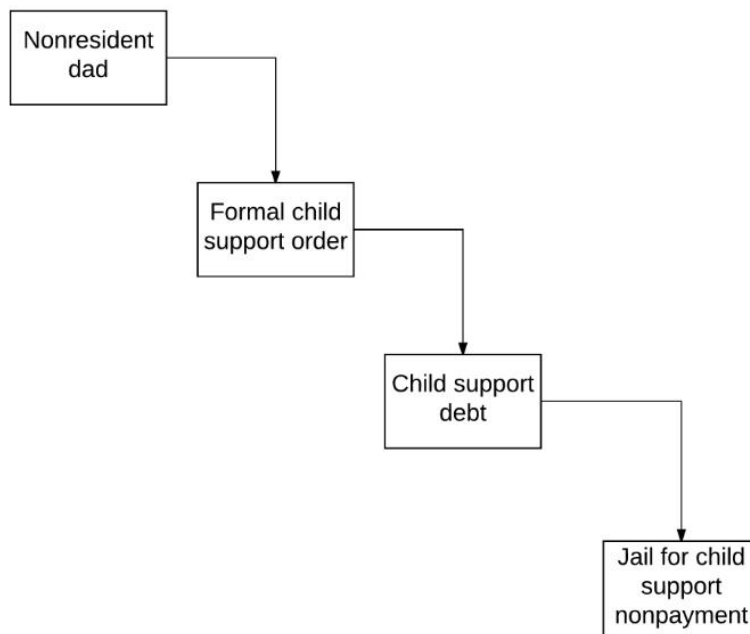


Figure 5. Jail for child support nonpayment as a multi-step process.

### **Pathways: Public Assistance and Relationship Context**

I argue that public assistance history and relationship context will shape a parent’s progress into becoming at risk of jail for child support nonpayment. Below, I review the literature on how each pathway should operate at each step of the process.

---

<sup>18</sup> About 4 of every 5 non-custodial parents are dads (Census 2012), so I use “he/his” in this chapter for ease of understanding for the reader. Furthermore, the pool of female NCPs in FFCW is too small for analysis. However, female NCPs are likewise at risk of incarceration for child support nonpayment, and may face unique vulnerabilities.

### *Formal Child Support*

As described above, the state automatically opens a child support order against the nonresident parent when a custodial parent applies for TANF or Medicaid (Roberts 2001). In regards to relationship quality, establishment of a child support order may signal a breakdown in the parental relationship, and an associated decline in informal and in-kind support (Nepomnyaschy & Garfinkel 2010; Waller & Plotnick 2001; Meyer & Cancian 2012; Kane, Nelson & Edin 2015). Evidence from qualitative studies suggests that lower relationship quality and the loss of informal support can lead custodial parents to pursue formal support as a “last resort” (Edin 2000; Waller 2002; Waller & Plotnick 2001).<sup>19</sup> Beginning a new relationship and having children with a new partner could also lead to a loss of support to the first family, compelling the first mother to open a formal child support order against the father (Edin & Nelson 2013). Thus, public assistance history and relationship quality may shape the likelihood that a family becomes involved with the formal child support enforcement system.

### *Child Support Debt*

A parent must be in the formal child support system in order for him to accrue child support debt. Child support debt consists of any child support or medical support that has been ordered but has not been paid. In Texas, for instance, unpaid child support becomes classified as a debt if it is at least one month past due (Texas Family Code § 157.266). Some states have policies for ordering retroactive child support, where child support orders that are established several years after parents break up can be retroactively determined to start at the date that the parents broke up, or even the date of the child’s birth, rather than the date that the order was

---

<sup>19</sup> Other analyses of the FFCW show that initial levels of informal support are higher than formal support, and that over time, formal support provided does not reach the initial levels of informal support (Nepomnyaschy & Garfinkel 2010). Thus, the breakdown of the parental relationship that goes along with the establishment of a formal support order may also signal a decline in the value of support provided to children.

established (Office of Inspector General 2000). This can lead to parents owing a debt balance right from the moment of establishment. Furthermore, states vary as to the value of interest that they charge on child support debts. Some states, like New Jersey, don't charge any interest, while other states like Illinois and Ohio charge up to 10% annually (Sorenson et al. 2007). Retroactive debts, unpaid child support, and interest all make up child support debt.

Public assistance involvement could increase the likelihood of child support debt by affecting a nonresident dad's willingness and ability to pay. While a custodial parent is receiving TANF, she doesn't get to keep any of her child support payments, aside from a small pass through in some states. Seeing that she doesn't receive his child support payments could make a dad less willing to pay his child support (Waller & Plotnick 2001), perhaps because he sees the situation as unfair (Lin 2000). Similarly, mothers with public assistance involvement may have children with fathers who have low earnings potential. Studies of assortative mating using the FFCW have shown that most mothers have more or equal educational attainment compared to fathers (Goldstein & Harknett 2006). When mothers have low educational attainment and earnings potential and turn to public assistance to make ends meet, this could signify that the fathers of their children are similarly low income. Ability to pay is a strong negative predictor of child support debt (Huang, Mincy, & Garfinkel 2005). Furthermore, a mother's Medicaid receipt increases the total sum of monthly support that a noncustodial father must pay, by adding some amount of medical reimbursement to the existing monthly child support order (Solomon Fears 2013). In some states, when mothers are on Medicaid, hospital birthing costs are billed to the noncustodial parent, creating a medical support debt from the first moments of his child's life (Bartfeld & Meyer 2003). Having a larger order may increase the likelihood of debt, especially for low-income parents.

Similarly, relationship factors may also shape a noncustodial parent's willingness and ability to pay child support and—by extension—drive the likelihood of child support debt accumulation. Relationship conflict is associated with child support debt (Turner & Waller 2017), and conflict and mistrust between parents is one reason that fathers give for their hesitation to pay child support (Cozzolino & Williams 2017). Family complexity also increases the likelihood of child support debt (Meyer, Cancian & Cook 2005) and could plausibly affect both a nonresident parent's willingness and his ability to pay. When dad has a new partner and children, he often “starts over” with this new family, which results in a lower investment in the first partner and children (Edin & Nelson 2013). Dad's family complexity may also affect his ability to pay, as new residential children must compete for resources with his other nonresidential children. Furthermore, the magnitude of a child support order generally increases as it is spread across multiple households. For instance, a father with three children making \$20,000 a year in Wisconsin will pay an annual child support order of \$5800 if all three children are in one household, but \$8564 if these three children are spread across three households (Meyer, Cancian & Cook 2005). Mom's family complexity may also affect dad's willingness to stay current on his child support payments, as he becomes unable to monitor how she spends her child support payments (Craigie 2015), and can't be certain that these payments aren't being spent on another man's child. Thus, public assistance history and relationship quality may drive whether or not a custodial parent accumulates child support debt.

#### *Jail for Child Support Nonpayment*

A parent must owe child support debt in order to be jailed for child support nonpayment. Failing to pay child support is a necessary prerequisite to any of the three routes into jail (interstate evasion, criminal nonsupport, and civil contempt). In addition to their contribution to

the likelihood of a nonresident parent a) entering the formal child support system, and b) accumulating child support debt, public assistance history and relationship quality may also directly affect the likelihood of a nonresident parent being sent to jail for his child support debt. For families with public assistance history, the state has a financial incentive to pursue child support debt, because they get to keep some portion of what is recovered (Solomon Fears 2012). In cases where debt recovery through more routine enforcement mechanisms is difficult (Bartfeld & Meyer 2003), the state may be more willing to turn to punitive actions such as contempt of court. Some research suggests that fathers whose families have public assistance history are more likely to be jailed than fathers without this involvement (Chambers 1979).

Relationship factors may also drive the likelihood of a parent being jailed for child support nonpayment, when this debt is owed mostly to the child's mother. Just as parents with better relationships are more likely to avoid the formal child support system (Edin 2000; Waller & Plotnick 2001), mothers with good relationships are less likely to cooperate with child support enforcement efforts (Rich, Garfinkel & Gao 2007; Waller 2002; Hamer 2001). Thus, mothers with worse relationships may be more willing to see their children's fathers go to jail if they believe this will help them to recover the debt they are owed. Previous research about men on the run from the law has shown that romantic partners are sometimes willing to use the threat of jail in their relationship negotiations (Goffman 2014). Indeed, the judicial child support enforcement process can become a source of power in gendered conflicts between parents (Elmore 2010). Finally, family complexity may also affect the risk of going to jail for child support nonpayment. If a father has children with more than one mother, this could increase his exposure to the child support enforcement system. The more women that a noncustodial father has had children with,

the greater his likelihood that at least one of them will become disenchanted with him and pursue child support debt aggressively (Meyer, Cancian & Cook 2005).

Based on the preceding discussion, I hypothesize that public assistance history and relationship context will each increase the odds of a nonresident parent a) having a formal child support order, b) accumulating child support debt, and c) being jailed for child support noncompliance.

## **Data and Method**

### *Data Source*

Data come from four waves of the Fragile Families and Child Wellbeing Study (FFCW), when focal children are ages 1, 3, 5, and 9. FFCW is a longitudinal birth cohort sample of nearly 5,000 families from 20 U.S. cities, of which three quarters of parents were unmarried at birth. When weighted with national sampling weights, the FFCW is representative of births occurring in cities with populations larger than 200,000 between 1998 and 2000. Because of the oversample of unmarried parents, these data are ideal for studying topics related to child support. This survey also collects data on involvement with the criminal justice system. To my knowledge, FFCW is the only national dataset that measures whether a non-custodial parent has gone to jail for child support nonpayment.

### *Analytic Strategy*

Based on the multistep process of jail for child support nonpayment outlined above, this analysis follows a similar logic. Within a discrete-time event history framework, I conduct a series of three logistic regressions:

1. *Of families with nonresident fathers, what predicts having a formal child support order?*
2. *Of fathers with a formal child support order, what predicts having child support debt?*

### 3. *Of fathers with child support debt, what predicts jail for child support nonpayment?*

I combine all waves of data and reshape the dataset so that each observation represents one person-wave. Each regression is clustered by respondent ID to control for including repeated measures of the same individuals over time.

This series of regressions allows me to parse out what factors affect progression through each step of the process of becoming at risk of jail for child support nonpayment. To adjust for time ordering, I conduct these regressions within a discrete-time event history framework. Results represent how each variable affects the likelihood of becoming eligible for the next stage of analysis by the next wave. At each stage, data were set for discrete-time event history analysis by identifying the dependent variable as a marker of failure and nesting repeated observations within a respondent's ID, using the *st set* suite of commands in Stata 14. For each regression, I measure the impact of public assistance and relationship context. The last logistic regression is the key outcome of interest, who out of the eligible population of child support debtors is sent to jail for nonpayment.

For fathers to be eligible to be sent to jail for child support nonpayment they must: a) live apart from the mother, b) have a formal child support order, and c) owe child support debt. (See Figure 5). Because of this, the sample for each equation is limited to those who are eligible. The first logistic regression predicting who has a formal child support order is limited to nonresident fathers, the second regression predicting child support debt is limited to those with a formal child support order, and the third regression predicting jail for child support nonpayment is limited to those with child support debt. Because my analyses focus on particular *subsamples* of the full



FFCW, no appropriate weights exist for my samples (Turney 2011).<sup>20</sup> The tables that I present are unweighted (Sugie 2012; Turney 2014a; Turney 2014b; Wildeman 2010).

Because the odds of proceeding through to the next regression depends on a respondent making it through the previous step, I control for the predicted probability of having made it through the prior step.<sup>21</sup> The regression predicting child support debt controls for the predicted probability of having a formal child support order, and the regression predicting jail controls for the predicted probability of owing child support debt.<sup>22</sup>

There is a large amount of missing in the father's reports. To minimize this, I combine father and mother reports for most measures, coding outcomes as true if either mom or dad reported it. Missing data are accounted for using multiple imputation in Stata 14 with fifty imputed datasets (Allison 2009).

Finally, because child support policies vary widely by state (in terms of order amounts, interest on debt, and ability to collect on debt [Roberts 2001]), I make use of the geocoded FFCW data to include dummies to control for the state where the respondent resides.<sup>23</sup>

---

<sup>20</sup> I find significant differences on all key variables of interest based on whether or not a respondent is part of the national FFCW sample. Appendix 1 presents results of t-tests demonstrating the differences on key variables between respondents who are and are not missing on a FFCW national probability weight, and presents weighted means for the descriptive statistics (Haskins 2016; Bzotek, McLanahan, & Carlson 2012). Because of these systematic differences, I present unweighted estimates.

<sup>21</sup> Because my outcome variables are related, it's possible that the error terms of these three regressions might be correlated. To address any disturbances across the three regressions, I redid the models as seemingly unrelated regressions (using the Stata *suest* command for binary outcomes) as an additional sensitivity check. This allowed me to estimate all three of the dependent variables simultaneously, to allow for the error terms to be correlated across the three outcomes. The results were largely the same (see Appendix 2.)

<sup>22</sup> To further account for the selection of parents into my sample, I also employed coarsened exact matching to account for the selection of parents into these groups. Parents were matched on age, race, education, and whether they made it through the prior step (e.g., for the debt regression, parents were matched on having a formal child support order). Results of these models are substantively the same, so I do not show them (available upon request).

<sup>23</sup> The FFCW is based on a sample of large cities. As a sensitivity analysis, I ran the models with city instead of state fixed effects. Results are largely the same (See Appendix 3). Because child support policy is made at the state level, I report results from the state fixed effects models in this chapter.

## *Measures*

There are three dependent variables of interest used in this analysis, describing whether a father has a formal order, owes debt, or goes to jail for child support nonpayment during any of the survey waves. First is whether or not a given nonresident father has a formal child support order. This is a binary variable coded with 1 = formal child support order and 0 = no formal child support order. Fathers who live with their children at the current wave are excluded from the first logistic regression.

The second outcome of interest is whether or not a father owes child support debt. This is a binary variable coded as 1 = owes child support debt and 0 = no child support debt. To minimize missing values, fathers who are reported as having been to jail for child support nonpayment, having faced other child support enforcement, or owing child support debt for children other than the focal child are also coded as 1. Fathers without formal child support orders are excluded from the second logistic regression.

The third outcome of interest is whether or not a father has gone to jail for child support nonpayment. This is a binary variable coded as 1 = has gone to jail for child support nonpayment and 0 = has never gone to jail for child support nonpayment. Jail for child support nonpayment is measured in two questions. The first is measured during the series of questions about the charges of dads with criminal justice histories. The second is measured during the series of questions asking about child support enforcement. A positive response to either question is coded as a 1. Fathers without child support debt are excluded from the third logistic regression.

These variables are based on a combination of mother and father reports for each of the four survey waves. If either a mother or a father reports that the father has a formal order, owes debt, or has been to jail for child support nonpayment, this is coded as true for this survey wave.

Key independent variables measure the two pathways into jail for child support nonpayment: public assistance involvement and relationship context.

*Public assistance.* I measure public assistance receipt as whether or not the focal child's mother has received TANF or Medicaid. TANF history is measured as a binary variable indicating whether mom has ever received TANF by the current wave, with 1 = has received TANF and 0 = has never received TANF. This measure combines two questions on TANF receipt. Mothers are asked if they have a) ever received TANF as of that year, or b) have received TANF at any time during the interview year. A positive response to either question is coded as 1 for that wave. Medicaid history is coded as a binary variable measuring whether mom has ever received Medicaid by the current wave. Because the nine year follow up does not differentiate between Medicaid and other forms of health insurance, Medicaid receipt is only measured up until the time the child is age five.

Finally, the third logistic regression includes a measure of the amount of child support debt that each father owes at each wave. This is an ordered categorical variable ranging from 1 to 8, with values of 1 = owes debt between \$1 and \$499, 2 = owes debt between \$500 and \$1,000, 3 = owes debt between \$1,001 to \$2,000, 4 = owes debt between \$2,001 and \$3,000, 5 = owes debt between \$3,001 and \$4,000, 6 = owes debt between \$4,001 and \$5,000, 7 = owes debt between \$5,001 and \$10,000, and 8 = owes debt above \$10,000. Owing less than \$500 in debt is the reference category.

*Relational variables.* There are four variables that measure the relationship between parents. First is mom's report of the quality of the parental relationship at each wave. This is a scale with values of 0 = I never see him, 1 = Poor quality, 2 = Fair quality, 3 = Good quality, 4 = Very good quality, and 5 = Excellent quality. Next is whether either mom or dad is in a relationship with

someone new at each wave, based on a combination of mom and dad's reports with each parent reporting on themselves. This is a binary variable with 1 = either parent is in a new relationship and 0 = neither parent is in a new relationship. The final two variables measure multi-partner fertility (MPF)—whether either parent has children by more than one partner at each wave. The measure of mom's MPF is coded as a binary variable based on mom's report with 1 = multi-partner fertility and 0 = no multi-partner fertility. Dad's MPF is coded the same way, but combines mom's and dad's reports to minimize missing.

The first control is the parent's relationship at baseline. This is a categorical variable with values of 0 = not married or cohabiting, 1 = married at birth, 2 = cohabiting at birth. Next is whether dad was incarcerated at baseline. This is based on mom's report of whether dad was in jail or prison at either of their baseline interviews, with a value of 1 = dad is incarcerated. Dad's educational attainment at baseline is measured as a categorical variable with values of 1 = less than high school, 2 = high school degree, 3 = some college, and 4 = college degree or higher, with less than high school as the reference category. Next is dad's age at the baseline survey, which is coded as a continuous variable. Dad's race is included as a series of dummy variables for Black, Hispanic, and other (race that is not white, Black or Hispanic.) White is the reference category. This measure was constructed by the survey developers and measured at the baseline survey.

In addition to these baseline control variables, I account for several time-varying controls. First is a measure of dad's household income, which is measured as a continuous variable at each survey wave. This measure is constructed by the survey developers. I include dad's employment status at each wave as a binary variable reporting whether or not dad was working last week, with values of 1 = working and 0 = not working. Both mom and dad reports are combined. Next

is whether mom reports any domestic violence from dad. This combines two measures of domestic violence that are reported at years 1, 3, 5, and 9 (see Boynton-Jarrett et al. 2010). Respondents were coded as 1 if mom reports that dad ever slapped or kicked her, or if dad ever seriously injured her.

Finally, state of residence is measured as where dad resides at each survey wave. This measure is included as a set of fixed effects (not shown, but available on request) measuring whether or not each individual dad lived in each state at each wave, with Texas as the reference category. Dad's report of state is prioritized, but to minimize missing, I fill in with mom's report of state if dad's is missing.

	Full FFCW		Nonresident Dad=1		Formal CS Order=1		CS Debt=1		Jail for CS Debt=1	
Nonresident dad	0.529	(0.499)	1.000	(0.000)	1.000	(0.000)	1.000	(0.000)	1.000	(0.000)
Formal child support order	0.265	(0.441)	0.515	(0.500)	1.000	(0.000)	1.000	(0.000)	1.000	(0.000)
Child support debt	0.149	(0.356)	0.297	(0.457)	0.604	(0.489)	1.000	(0.000)	1.000	(0.000)
Jail for child support nonpayment	0.019	(0.138)	0.039	(0.194)	0.082	(0.274)	0.140	(0.347)	1.000	(0.000)
Amount of child support debt (Categorical)	4.896	(2.394)	4.979	(2.385)	4.979	(2.385)	4.979	(2.385)	5.974	(2.246)
Public Assistance History										
Mom has ever received TANF	0.475	(0.499)	0.627	(0.484)	0.641	(0.480)	0.693	(0.461)	0.855	(0.353)
Mom has received Medicaid by wave 3	0.579	(0.494)	0.719	(0.450)	0.730	(0.444)	0.768	(0.422)	0.699	(0.459)
Relational Variables										
Relationship quality	3.074	(1.523)	2.151	(1.420)	2.051	(1.363)	1.752	(1.249)	1.700	(1.284)
Either parent is in a new relationship	0.266	(0.442)	0.500	(0.500)	0.551	(0.497)	0.598	(0.490)	0.592	(0.492)
Mom has MPF	0.421	(0.494)	0.554	(0.497)	0.580	(0.494)	0.597	(0.491)	0.636	(0.482)
Dad has MPF	0.533	(0.499)	0.627	(0.484)	0.719	(0.450)	0.726	(0.446)	0.819	(0.386)

Table 4. Descriptive statistics by subsample.

(continued on next page)

	Mean (SD)									
	Full FFCW		Nonresident Dad=1		Formal CS Order=1		CS Debt=1		Jail for CS Debt=1	
Controls										
Dad worked last week	0.725	(0.446)	0.577	(0.494)	0.628	(0.483)	0.537	(0.499)	0.508	(0.501)
Relationship at Baseline (Categorical)	0.968	(0.870)	0.722	(0.922)	0.706	(0.920)	0.685	(0.921)	0.618	(0.908)
Dad in jail at baseline	0.039	(0.193)	0.061	(0.239)	0.058	(0.233)	0.065	(0.246)	0.044	(0.206)
Any domestic violence	0.089	(0.284)	0.155	(0.362)	0.163	(0.369)	0.198	(0.399)	0.187	(0.391)
Dad's education (Categorical)	2.288	(1.060)	2.173	(1.017)	2.168	(0.979)	2.108	(0.977)	2.145	(1.089)
Dad age at baseline	32.127	(7.718)	31.235	(7.719)	31.719	(7.274)	31.457	(6.928)	31.536	(6.412)
Dad's household income	\$ 47,436.18	(54,954.52)	\$ 35,179.63	(41,537.10)	\$ 35,842.95	(39,781.27)	\$ 32,321.37	(39,934.43)	\$ 28,443.12	(27,285.89)
Dad is White	0.188	(0.391)	0.107	(0.310)	0.110	(0.313)	0.111	(0.314)	0.122	(0.327)
Dad is Black	0.504	(0.500)	0.631	(0.483)	0.654	(0.476)	0.661	(0.473)	0.678	(0.468)
Dad is Hispanic	0.264	(0.441)	0.219	(0.414)	0.199	(0.399)	0.191	(0.393)	0.155	(0.362)
Dad is other race	0.040	(0.196)	0.034	(0.182)	0.032	(0.177)	0.032	(0.177)	0.046	(0.210)
State of residence (Categorical)	32.897	(15.841)	33.523	(15.457)	35.277	(15.210)	35.979	(15.154)	38.363	(13.628)
Baseline state of residence (Categorical)	33.144	(15.770)	33.742	(15.435)	35.512	(15.145)	36.154	(15.123)	38.678	(13.731)
<i>N</i> (person-waves)	16,665		8,814		4,284		2,359		304	

## Results

### *Descriptive Results*

Table 4 provides descriptive statistics for the full FFCW sample and each limited sample. A little more than half of FFCW observations report a nonresident father at any survey wave. Of families with nonresident fathers, about half have a formal child support order. Of families with a formal child support order, 60% owe debt on this order. And of these child support debtors, about 14% go to jail for child support debt. Figure 6 graphs selected characteristics of these subsamples to demonstrate differences in public assistance and relationship context among these different subsamples. Compared to the analytic subsamples, a smaller share of those in the full FFCW have received public assistance or have relationship complexity (a new partner or new children). As the sample is refined, generally higher percentages of respondents have public assistance history and relationship complexity. For interested readers, Appendix 4 presents the percent of FFCW debtors who go to jail from each city (and aggregated by state).<sup>24</sup> Figures 1-3 and Appendix 5 present the results of two-tailed t-tests differentiating between those in and out of each subsample. These additional tables and figures can help contextualize how my samples compare to one another, and to the full FFCW.

---

<sup>24</sup> In their description of the FFCW sampling procedure, Reichman et al. (2001) describe how cities were sampled based on the stringency of their welfare and child support regimes. Comparing Appendix 4 to the original classification shows that most of the cities identified by survey designers as punitive or lenient are also punitive or lenient when it comes to jailing, with a few exceptions (Austin incarcerates more debtors, and Boston, and Detroit each incarcerate fewer debtors than would be expected based on their 2001 child support stringency ratings).



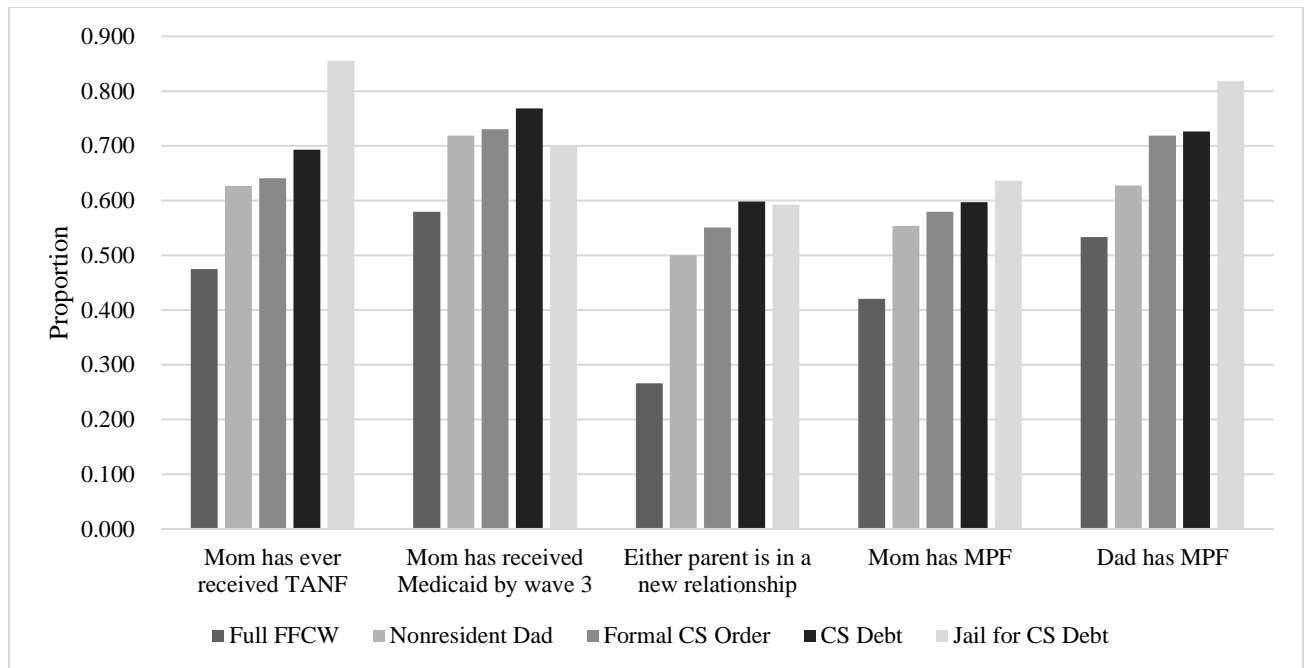


Figure 6. Selected characteristics of FFCW subsamples.

I now turn to the results from the multivariate models. For Tables 5-7, Model 1 includes public assistance measures, Model 2 includes relationship context, and Model 3 includes both. For Table 7, Model 4 incorporates information on the amount of child support debt. All models include controls for state of residence as well as the sociodemographic controls described above.

#### *Formal Child Support Order*

Table 5 displays the multivariate results from a logistic regression predicting a formal child support order among nonresident fathers. In the first model, fathers whose children's mothers have ever received TANF by the focal survey wave have 15% higher odds of a formal child support order, all else held constant. Model 2 incorporates relational variables. In Model 2, relationship quality is negatively associated with the having a formal child support order, as every one-point increase in the relationship quality scale is associated with a 5% decline in the odds of having a formal order. Either parent having been in a new relationship is associated with an 18% increase in the odds of obtaining a formal child support order. Dad's MPF—but not

mom's MPF—is associated with 2.16 times higher odds of obtaining a formal child support order. In the full model, the effect of TANF drops to marginal significance, and relationship quality becomes significant, but the rest of the associations are the same.

	Odds Ratio (Standard Error)		
	Model 1	Model 2	Model 3
Wave	1.131*** (0.009)	1.098*** (0.009)	1.114*** (0.009)
Public Assistance History			
Mom has ever received TANF	1.153* (0.075)		1.127+ (0.075)
Mom has received Medicaid by wave 3	1.075 (0.071)		1.040 (0.070)
Relational Variables			
Relationship quality		1.008 (0.021)	0.947* (0.020)
Either parent has ever been in a new relationship		1.226*** (0.065)	1.186** (0.063)
Mom has MPF		0.973 (0.063)	0.973 (0.063)
Dad has MPF		2.089*** (0.140)	2.159*** (0.145)
Constant	0.296*** (0.059)	0.408*** (0.083)	0.293*** (0.062)
Observations	8,164	8,164	8,164

Table 5. Results from logistic regressions predicting formal child support order among families with nonresident dads.

Note: \*\*\*  $p < 0.001$ , \*\*  $p < 0.01$ , \*  $p < 0.05$ , +  $p < 0.1$ . Robust seeform in parentheses. All models control for state of residence, relationship at baseline, whether dad was in jail at baseline, dad's baseline age and education, whether dad worked last week, dad's household income, and dad's race.

### *Child Support Debt*

Table 6 displays the multivariate results from a logistic regression predicting child support debt among fathers with formal child support orders. Compared to the previous model, this

model has fewer significant associations, possibly because much of the difference between those with and without child support debt are absorbed by the differences between those with and without a formal child support order. This model controls for the predicted probability of having a formal child support order.

In Model 1, neither TANF nor Medicaid is significantly associated with the accrual of child support debt.<sup>25</sup> In Model 2, relationship quality is negatively associated with the accrual of child support debt, as every one-point increase in the relationship quality scale is associated with a 24% decline in dad's odds of acquiring child support debt. In Model 3, the effect of TANF becomes significant, with fathers whose children's mothers have ever received TANF by the current wave having 38% higher odds of accruing child support debt, compared to those families without public assistance involvement. In this model, relationship quality remains significantly negatively associated with accruing child support debt, at a similar magnitude as in Model 2.

---

<sup>25</sup> A quick note on causality. It is plausible that dad's child support debt (or, his child support nonpayment that leads to this debt) could impel mom to apply for public assistance, instead of mom's public assistance receipt increasing the likelihood of dad's child support debt (Roberts 2001). As a sensitivity analysis, therefore, I also ran models which lagged mom's TANF receipt by one wave (available on request). The results were robust, so I have confidence that causality is operating in the hypothesized direction.

	Odds Ratio (Standard Error)		
	Model 1	Model 2	Model 3
Wave	0.912 (0.069)	1.109+ (0.061)	1.027 (0.053)
Public Assistance History			
Mom has ever received TANF	1.167 (0.142)		1.384** (0.147)
Mom has received Medicaid by wave 3	1.103 (0.111)		1.172+ (0.113)
Relational Variables			
Relationship quality		0.742*** (0.023)	0.786*** (0.031)
Either parent has ever been in a new relationship		1.276+ (0.177)	1.163 (0.128)
Mom has MPF		1.099 (0.094)	1.021 (0.088)
Dad has MPF		1.288 (0.562)	0.731 (0.273)
Constant	0.294+ (0)	3.244 (2.640)	1.292 (0.738)
Observations	3,849	3,849	3,849

Table 6. Results from logistic regressions predicting child support debt among families with formal child support orders.

Note: \*\*\*  $p < 0.001$ , \*\*  $p < 0.01$ , \*  $p < 0.05$ , +  $p < 0.1$ . Robust seeform in parentheses. All models control for the predicted probability of having a formal child support order, state of residence, relationship at baseline, whether dad was in jail at baseline, dad's baseline age and education, whether dad worked last week, dad's household income, and dad's race.

#### *Jail for Child Support Nonpayment*

Table 7 displays the multivariate results from a logistic regression predicting a jail for child support nonpayment among fathers with child support debt. Again, this model has few significant associations, suggesting that much of the difference between those who do and do not go to jail for child support debt is absorbed through differences between those with and without

debt, and those with and without a formal order. This model controls for the predicted probability of having child support debt.

In Model 1, neither TANF nor Medicaid is significantly associated with jail for child support nonpayment among child support debtors. In Model 2, Dad's MPF emerges as a significant predictor of jail for child support nonpayment among child support debtors, increasing the odds of jail by 65%. In Model 3, Dad's MPF remains the only significant predictor of jail for child support debt, with a similar magnitude. Finally, Model 4 incorporates information on the amount of child support debt. Compared to parents owing less than \$500 in child support debt, parents who owe more than \$10,000 are almost four times as likely to go to jail for this debt. In Model 4, dad's MPF remains a significant positive predictor of jail, even after controlling for the amount of debt.

	Odds Ratio (Standard Error)			
	Model 1	Model 2	Model 3	Model 4
Wave	1.087+ (0.055)	1.038 (0.057)	1.051 (0.050)	1.003 (0.050)
Public Assistance History				
Mom has ever received TANF	0.932 (0.232)		0.758 (0.206)	0.733 (0.198)
Mom has received Medicaid by wave 3	1.406 (0.300)		1.312 (0.282)	1.305 (0.285)
Relationship Factors				
Relationship quality		1.326 (0.265)	1.278 (0.211)	1.356+ (0.226)
Either parent has ever been in a new relationship		0.764 (0.131)	0.759 (0.132)	0.741+ (0.129)
Mom has MPF		0.991 (0.165)	1.035 (0.165)	1.045 (0.169)
Dad has MPF		1.649* (0.324)	1.658** (0.319)	1.619* (0.315)
Amount of CS Debt (Ref: Between \$1 and \$499)				
\$500 to \$1,000				1.462 (0.734)
\$1,001 to \$2,000				1.677 (0.808)
\$2,001 to \$3,000				1.536 (0.787)
\$3,001 to \$4,000				1.600 (0.906)
\$4,001 to \$5,000				1.728 (0.931)
\$5,001 to \$10,000				2.256+ (1.084)
More than \$10,000				3.849** (1.838)
Constant	0.054* (0.076)	0.011* (0.023)	0.008* (0.016)	0.004** (0.008)
Observations	2,046	2,046	2,046	2,046

Table 7. Results from logistic regressions predicting jail for child support nonpayment among families with child support debt.

Note: \*\*\* p<0.001, \*\* p<0.01, \* p<0.05, + p<0.1. Robust seeform in parentheses. All models control for the predicted probability of owing child support debt, state of residence, relationship at baseline, whether dad was in jail at baseline, dad's baseline age and education, whether dad worked last week, dad's household income, and dad's race.

## Discussion

Taken together, these models provide moderate support for the hypothesized effects of public assistance involvement and relationship context on pathways into jail for child support nonpayment. Medicaid receipt is never significantly associated with jail for child support debt. TANF receipt, on the other hand, is marginally positively associated with the acquisition of a child support order ( $OR = 1.127, p < 0.10$ ) and significantly positively associated with the accrual of child support debt ( $OR = 1.384, p < 0.01$ ). These results are as hypothesized. However, public assistance involvement is not significantly associated with jail for child support nonpayment among debtors. This could be because public assistance increases the odds of a father making it into the risk pool of child support debtors—by (marginally) increasing the odds of obtaining a formal order, and by increasing the odds of accruing child support debt—but, once he makes it into this risk pool, TANF does not significantly increase his odds of going to jail for this debt.

Yet, the amount of child support debt is an extremely strong predictor of jail for child support nonpayment, with fathers who owe above \$10,000 almost four times as likely to go to jail as fathers who owe less than \$500. Since TANF is associated with the accrual of debt, it's possible that TANF is operating indirectly through the amount of child support debt to affect the risk of jail. However, more analyses are necessary to determine whether this is the case.

These results provide consistent support for the relationship context pathway into jail for child support nonpayment. At the first stage, relationship quality, either parent having a new relationship, and dad's MPF—but not mom's—are all associated with obtaining a formal child support order. In line with prior qualitative research (e.g., Edin & Nelson 2013; Waller & Plotnick 2001), parents with lower relationship quality and parents with new partners and children are more likely to have a formal child support order. To my knowledge, this is one of

the first studies to find this same effect in quantitative data. At the second stage, relationship quality is significantly negatively associated with child support debt accrual, as a one point increase in the relationship quality scale is associated with about a 20% decline in the odds of accruing child support debt, in line with the hypotheses. Finally, in the third stage, dad's MPF (but not mom's MPF [cf. Craigie 2015]) is positively associated with jail for child support nonpayment among child support debtors, as hypothesized.

There are several limitations to these findings. First, I want to hedge the findings about which of these pathways is stronger. Because the public assistance pathway is measured by only two binary variables and the relationship context pathway is measured through four variables (three binary and one categorical), the measures of public assistance receipt have less variance than the measures of relationship context. Because of this, the generally stronger support for the relationship context pathway could be a statistical artifact. Although both the public assistance and relationship context pathways affect the process of becoming at risk of jail for child support, these differences in variation make it hard to say whether either pathway is stronger.

Second, my sample comes from a particularly low-income and nonwhite subsample of the FFCW (See Appendix 5 and Figures 1-3 in Appendix for more on how my samples differ from the full FFCW). Because I am analyzing a subsample, these estimates are not weighted with national sampling weights. Therefore, the estimates from this article should not be generalized to the entire U.S. population. However, we know that incarceration is not equally distributed across the population (Alexander 2012; Wakefield & Wildeman 2014). Due to the structure of the child support enforcement system, as well as demographic predictors of single parenthood and child support debt (Bogensneider 2000; Sorenson et. al 2007), my analytic sample is likely representative of those most at risk of being jailed for child support debt, and my results can still



be instructive for those involved in studying the child support, welfare, and criminal justice systems.

It is perhaps because of this sample refinement that I do not find significant effects for race (see full models in Appendices 6-8). Compared to those in the full FFCW, the fathers in my formal, debt, and jail samples are all significantly less likely to be white and significantly more likely to be Black. Perhaps the effect of differential selection by race is absorbed through the predicted probabilities that I include that move from each prior regression to the next.<sup>26</sup> Research in criminal contexts shows that race matters for judicial discretion (e.g., Demuth 2003; Demuth & Steffensmeier 2004; Steffensmeier & Demuth 2001). Future studies should look more closely at the effect of race on jailing for child support debt.

Further, since child support policy operates on a state level, I control for state of residence but do not analyze the effects of any particular state on the risk of jail for child support nonpayment. Future research should leverage state-level variation to examine how different child support policy levers affect the likelihood of jail for child support debt.<sup>27</sup>

Overall, I find that 14% of child support debtors spend time in jail by the time their children are 9 years old. This may seem perplexing, given that 60% of those in the formal sample owe

---

<sup>26</sup> I do not find any main effects for race (See Appendices 6-8). To further investigate this question, I conducted a series of interaction tests to see if the effect of relationship context or public assistance varied by race. I interacted each of the focal public assistance and relationship context variables by the dummy variables for Hispanic, Black, and white. None of the Hispanic interactions were significant. Turning to the Black interactions, relationship quality \* Black was significant and negative for both the debt and formal regressions. This suggests that an increase in relationship quality for Blacks is especially protective against entrance into the formal system or debt accumulation, compared to dads who aren't Black. For the white interactions, being in a new relationship \* white was significant and positive for the jail regression. Yet, only 3% of the sample fit into this category, suggesting that this significant effect could be because of small cell sizes.

<sup>27</sup> Although there is variation in the percentage of debtors incarcerated for child support by city and state (see Appendix 4), the role of judicial discretion makes it unlikely that state or city completely determines outcomes. Because the FFCW is a sample of large cities, many of the IV-D courts in these cities are likely presided over by more than one Judge. One foundational study of child support establishment found great disparities in outcomes across individual judges who presided over the same jurisdiction in Denver (Yee 1979). Because contempt of court is so dependent on judicial discretion—and because the FFCW cities are so large—I am confident that there remains room for judicial discretion within cities and within states, even if we see some variation across cities and states.

debt. There are a few reasons why this number may be so low. First, contempt of court can be a lengthy process, necessitating a number of legal motions that can be time-consuming. Little is known about how this process works across the country, but research from select jurisdictions has shown that sheriffs see contempt of court as a low priority, service process can take a long time, and in some states<sup>28</sup> parents have right to counsel, which can delay a hearing on a contempt motion (Dolittle & Lynn 1998). Even when custodial mothers are seeking child support enforcement, some complain that the state doesn't act fast enough or do enough to try and collect support from fathers (Josephson 1997). Because it is a civil rather than a criminal matter, law enforcement officers may be slower to enforce contempt of court than criminal offenses.

## **Conclusion**

This chapter sought to investigate who, out of those with child support debt, goes to jail for this debt. Of child support debtors in the FFCW, about 14% go to jail for child support debt in the first 9 years of their children's lives. To determine risk factors, I employed three logistic regressions within a state fixed effects discrete-time event history framework to determine how two pathways—public assistance involvement and relationship context—affect progression through the steps of becoming at risk of jail for child support debt. To be at risk, a parent must live away from his child, have a formal child support order, and owe debt. I find that public assistance involvement and relationship context predict movement into having a formal child support order and accruing child support debt, but only relationship context predicts jail for child

---

<sup>28</sup> Some states, such as Maryland, provide a lawyer throughout the enforcement process. In others, such as Texas, qualifying low-income NCPs are not informed of their right to counsel until incarceration becomes a possible outcome. Still, other states never provide a court-appointed attorney because NCPs should not be held in contempt unless they have the ability to pay. If they have the ability to pay their child support debt, they also must have the ability to pay for their own counsel (HHS 2002)

support nonpayment. In addition, dads with \$10,000 or more of child support debt have much higher odds of going to jail for this debt than dads owing less than \$500.

This study contributes to the discussion on poverty governance by examining how a third, relatively understudied institution—the child support enforcement system—is connected to the welfare and criminal justice systems. Receiving public assistance requires families to interact with the formal child support system, and parents who owe child support can be sent to jail for this debt. Contempt of court for child support nonpayment is a civil, not a criminal, offense; therefore the child support enforcement system constitutes part of the shadow carceral state, extending the capacity of the state to deprive individuals of liberty, even if they haven't committed criminal offenses (Beckett & Murakawa 2012). The child support enforcement system, therefore, is an institution of poverty governance to which more than 11 million child support debtors are subject (OCSE 2014a). This is one of the first studies to investigate what factors affect one's likelihood of spending time in jail for child support debt.

Finally, this study has implications for child wellbeing. There is a large literature on the collateral consequences of incarceration, showing negative consequences of incarceration on earnings, employment, relationships, and child health and well-being (Wakefield & Wildeman 2014; Pager 2003; Turney & Wildeman 2013). Child support enforcement aims to increase child wellbeing by ensuring that noncustodial fathers contribute to children's material wellbeing. Yet, owing child support debt puts nonresident dads at risk for going to jail, triggering potentially negative collateral consequences. Understanding more about jail for child support nonpayment, therefore, is important for child wellbeing.

## **Chapter Two. Judicial Discretion in Child Support Enforcement Court**

Child support enforcement court lies at the intersection of family law, welfare, and the criminal justice system. In child support enforcement court, nonresident parents (usually dads) face being held in contempt of court and incarcerated if they owe child support debt. Contempt for child support nonpayment blurs the line between the civil and criminal justice systems, constituting part of the “shadow carceral state” (Beckett & Murakawa 2012), where civil entities acquire the capacity to detain. Most research on judicial discretion has focused on criminal courts, and most research on judicial discretion as it relates to child support has focused on the process of opening a child support order and setting order amounts. This chapter aims to bridge the gap between these two literatures by examining how judicial discretion operates in child support enforcement court.

Drawing on field observation of 250 child support enforcement hearings in two jurisdictions, this chapter examines the role of judicial discretion at three decision points in the life of a child support enforcement case. The first is whether or not a judge finds a parent indigent, and eligible for a court-appointed attorney. The second is whether or not a judge is willing to lower the bond on which a parent is held while awaiting his child support enforcement hearing. The third is whether a judge gives a contemnor another chance to pay down his debt before ruling that he serve out his sentence.

Each of these decision points have real world consequences for the nonresident parents who are involved in the child support enforcement system. Individuals with legal representation tend to fare better in civil court (Engler 2009). Being detained before trial has shown to have negative consequences for individuals in criminal court (Williams 2003). Finally, spending time

in custody, whether prison (Wakefield & Wildeman 2014) or jail (Comfort 2015) has a host of negative collateral consequences on individuals and their families.

## **Literature Review**

### *Judicial discretion in the criminal justice system*

The concept of judicial discretion is most often studied in the criminal context. Albonetti (1991) provides a summary of two major theories of discretion. The first comes from the organizational features of the courts. Experience leads judges to develop “patterned responses” for risk management based on cases they have already seen, to help them reach a decision. These judges engage in “satisficing” wherein they focus on reducing recidivism. Qualities that they associate with the likelihood of future criminal activity are marshalled in their sentencing determinations. The second theory focuses on causal attribution—the extent to which judges attribute personal and environmental causes to the commission of the crime. For instance, one can steal either as a result of greed (personal), or poverty (environmental). If judges attributes theft to greed, they are likely to sentence thieves more harshly than if they attribute theft to poverty. As with the patterned response theory, attributions are linked to social categories and stereotypes, which helps explain racial and socioeconomic disparities in criminal court. Compared to whites, people of color are more likely to be sentenced to jail or prison time (Steffensmeier & Demut 2001). Furthermore, research has shown that Latinos, followed by Blacks, have the least favorable pretrial release decisions, because they are held on higher bond and less likely than whites to be able to afford to pay this bond (Demuth 2003; Demuth & Steffensmeier 2004). Judicial discretion, whether through patterned responses, attribution, or unconscious racial/ethnic biases clearly shapes legal outcomes, with ramifications for inequality.

These theories of discretion can help us understand how judicial discretion functions in the family court context.

### *Judicial discretion in child support policy*

*Establishment.* The child support system was founded with the purposes of ensuring that nonresident parents contribute financially to their children, so that custodial parents and children would be lifted out of poverty and lose their welfare eligibility (Solomon-Fears 2013). Before 1984, child support orders were determined on a case-by-case basis, in line with norms of family law that allowed judicial decision-making to be tailored to the individual needs and circumstances of families (Elrod 1990). This resulted in significant disparities in child support order amounts. In her 1979 investigation of child support establishment in Denver, Yee found child support order amounts ranging from 6% to 48% of the nonresident parent's income, without readily discernable patterns. For instance, one father making \$300/month was ordered to pay \$125 in child support for one child (42% of his income), while another making \$1,342/month was ordered to pay only \$100 for his one child (7.5% of his income). About 60% of the custodial parents in Yee's study received Aid to Families with Dependent Children (AFDC), and, in 76% of cases, children remained on welfare even after their nonresident parents were ordered to pay child support (Yee 1979, p. 39). This finding suggested that child support orders didn't pull the incomes of custodial families above the poverty line.

Yee's (1979) study helps provide context for the implementation of child support guidelines. According to Garfinkel and Melli (1990), there were three main reasons for implementing guidelines: first, order amounts were insufficient to raise children; second, orders ranged widely "for no apparent reason" (Elrod 1990, p. 111); and third, policymakers believed that making nonresident parents contribute substantially to their children's upbringing would

reduce the welfare rolls. The 1984 Child Support Amendments (HR 4325) instructed states to come up with mathematical guidelines for determining child support orders, and the Family Support Act of 1988 (HR 1720) made these guidelines presumptory—if judges choose to set a child support order that does not follow these guidelines, they must provide reasoning for this departure in writing (Elrod 1990; Garfinkel & Melli 1990). These reforms significantly cut down on the amount of judicial discretion in child support establishment. In contrast to judicial discretion in setting a child support order amount, less research has focused on specific moments of judicial discretion in the child support enforcement process.

*Enforcement.* In a child support enforcement action, a noncustodial parent who owes child support is brought to court to account for this debt. If he is found in contempt of court for his failure to obey the child support order, he can be jailed. In Texas, the site of this study, contempt of court for child support nonpayment carries a sentence of six months in jail. Importantly, contempt of court for child support nonpayment is a civil rather than criminal offense. Legal scholars have identified civil contempt as a judicial power that can be capriciously applied (Patterson 2008). Indeed, even the Supreme Court pointed to the potential for “most tyrannical licentiousness” in how judges exercise the contempt power (International Union, United Mine Workers v. Bagwell, 512 U.S. 821, 831 [1994], cited in Patterson 2008, p. 122).

In his foundational study of child support enforcement court, Chambers (1979) examined the court records of 28 Michigan counties between 1969 and 1974. Chambers found that judicial discretion mattered in deciding whether or not to bring an enforcement action against a parent who owed child support. After an action was brought, Chambers (1979) found that those who were jailed for nonpayment were less likely have legal representation, and more likely to have blue-collar jobs, irregular employment histories, problems with alcohol, other criminal justice

involvement, and ex-wives who received welfare. Blacks who owed child support debt were also disproportionately likely to be jailed, compared to whites (see also May 2004; Cook 2015).

More recently, Cook and Noyes (2011) find discretion among individual caseworkers and judges regarding when to pursue contempt of court for child support nonpayment. They find that some jurisdictions have written guidelines about when contempt should be used to enforce child support nonpayment, while other do not. Some counties employ jail for child support nonpayment as a “last resort” while others implement it sooner, as a “wake up call” for parents (Cook & Noyes 2011). Furthermore, different judges require different “burdens of proof” and have different definitions of “willfulness” (Cook & Noyes 2011, p. 11). This work provides clear evidence that the contempt process leaves much room for judicial discretion.

Brito and colleagues (2015) conduct ethnographic observation in civil courts in two states to examine attorney representation among low-income litigants facing contempt of court for child support nonpayment. Many of the parents that they observe have trouble finding good jobs, but court officials fail to recognize racial discrimination as a barrier that these majority Black noncustodial parents face, instead painting them as willfully avoiding work. Judicial interpretations of these fathers as lazy, rather than systematically disadvantaged lead to a policy of “legal-colorblindness,” which negatively affects the legal outcomes of Black fathers.

Building off this previous work, I investigate the role of judicial discretion at three particular decision points during the life of a child support enforcement case: first, whether or not a judge makes a determination of indigency and appoints counsel; second, whether or not a judge is willing to lower the bond of parents who testify that they cannot afford to bond out before trial; and third, how the judge chooses to enforce a sentence of contempt—by either deferring the sentence to give the parent another chance to pay, or committing to jail.



## Data and Method

This chapter draws on qualitative research that I conducted in two central Texas counties as part of a larger project. In spring and fall 2016, I observed more than 250 child support hearings across two counties. I call the first jurisdiction Riley County,<sup>29</sup> a politically-liberal, urban county in central Texas with a diverse population in terms of race and socioeconomic status. The second jurisdiction, that I call Masters County, is adjacent to Riley County, but whiter, more suburban, more affluent, and more conservative politically. Through designing this project as a county comparison, I intended to study how the demographics and political affiliations of the two sites affected the punitiveness of judicial child support enforcement. What I found, however, was that variation in punitive orientation towards nonresident parents mapped more closely on to individual *judges* than it did jurisdictions. This is also because the main judges that I observed in each county travelled to other counties weekly to preside over child support enforcement in other jurisdictions. Although I didn't observe them presiding over these travelling courts, I did observe three different judges presiding in Riley County, who ruled very differently from one another on these major decision points.

### *Site descriptions*

The Riley County child support court is held in a building on the south side of the city. The court building consists of one courtroom, with a waiting room outside. The waiting room has large windows into the courtroom so that litigants can watch the action at the bench, but generally cannot hear the proceedings. The waiting room has rows of chairs facing the courtroom, in which litigants slouch, browse the Internet on their cell phones, and try to entertain their children as they wait all day for their cases to be called. The waiting room gives this

---

<sup>29</sup> Counties have been given pseudonyms to preserve anonymity.

building the feel of a state office or low-rent health clinic. There is another door in the waiting room that leads to a mediation room, where prosecutors from the state's Attorney General's (AG) Office talk with both parents to try to come to an agreed order and avoid the necessity of going in front of the judge for a hearing.

When you walk into the building, there is a bathroom and water fountain, and then double glass doors leading into a security line. When the doors first open at 8:15 each morning, there is a long queue to go through the metal detector, a line that sometimes sticks out the front door into the weather outside. Parents have to take off their belts and empty their pockets when they go through security. Since the bathroom and water fountain are outside of the metal detector, they have to go through security again every time they have to go to the bathroom or get a drink of water as they await their hearings. During the course of my time in Riley County, I became friendly with the deputies working the security line because of my many trips through it.

Riley County is served by two different judges and organizes the dockets by type of case and day of the week. I observed in Riley County on Fridays, Judge Salinas' enforcement docket. Judge Salinas is a diminutive, wrinkled Latina woman in her sixties whose small size belies the gravity of her presence. In addition, I spent two sessions observing other judges presiding in Riley County—one was a guest Judge on a day that Judge Salinas was absent, and the other is Judge Lopez, the other Riley County presiding Judge, who hears enforcement cases on Thursdays. Observing other presiding judges helped me put Judge Salinas' judicial approach in context.

Unlike Riley County court, Masters County child support enforcement court is part of the larger district court complex for Masters County. Child support court is on the second floor, at the end of a long hallway filled with other courtrooms. Each courtroom has an airport style sign

showing what cases are on the docket each day, and benches in the hallway that look like church pews. Here, parents go through the metal detector only once when they walk in. This court complex is equipped with vending machines, bathrooms, a breakroom - all without having to go back through the metal detector.

Mediation in Masters County often takes place at tables positioned in the courtroom itself, even while the judge is on the bench. This means that the courtroom itself is often quite loud, and the litigants who sit on benches inside the courtroom often cannot hear what is going on at the bench.

Unlike Riley County, which divides its docket into enforcement and establishment days, Masters County hears all types of cases on the same days. Early in my field work, I noticed that there were generally more establishment than enforcement cases. Because I was interested in observing child support enforcement cases, I befriended the court clerk, who would tell me ahead of times which days would be good ones for me to observe because there were more enforcement cases on the docket.

Judge Warren is the presiding Judge in Masters County child support court. She is an older blond white woman with oval-shaped black plastic glasses whose reputation precedes her. Before I began observing in court, I had heard from many people that Judge Warren was very tough. Through my observations, I generally found her to be reasonable and empathetic. The AG staff who work in Masters County all admire Judge Warren—one told me that Judge Warren was who she wants to be when she grows up.

With the consent of the judges in each county, I sat next to the bench and took field notes via computer about all of the cases that I observed. From February to May 2016, I spent one day a week observing Riley County child support court from docket call at 8:30 in the morning until

the last case was called, sometimes as late as 6:00 in the evening. During the course of my field work in Riley County, I observed 150 child support enforcement hearings for a total of 123 unique noncustodial parents.<sup>30</sup> From September through December 2016, I observed in Masters County using the same observation method. During this time, I observed 95 child support enforcement hearings for a total of 90 unique noncustodial parents. For an additional point of comparison, I spent one day in Judge Lopez's Riley County Court, observing 23 hearings. As part of the larger dissertation project, I conducted interviews with two child support defense attorneys, with experience in both of the judges' courts. I briefly draw from these interview transcripts to make my case that the differences I observed are based on judicial discretion more than jurisdictional differences.

Key statistics about these cases and individuals were collected in spreadsheets to allow for ease of summarizing. Full narratives from field notes were analyzed using the qualitative data analysis software Max QDA. Analysis followed the coding procedure outlined by Emerson and colleagues (1995). I began with a round of open coding, creating codes on a line-by-line basis. After the major themes and codes were identified, I wrote integrated memos that became the basis for this chapter.

## **Findings**

### *The process of jailing for child support nonpayment*

To understand the legal proceedings that I present, I first clarify the process of jailing a nonresident parent for child support. This process is mapped in Figure 7. In Texas, noncustodial parents facing a charge of contempt have the right to a lawyer. Prior to their contempt hearing, judges notify noncustodial parents of their right to legal representation. In regards to this right

---

<sup>30</sup> In 27 cases, I observed repeated hearings for the same individuals.

parents have three choices: 1) to request that the hearing be delayed so they have time to hire a lawyer, 2) to request an indigency hearing to see if they qualify for a court-appointed counsel, or 3) to waive their right to counsel and represent themselves.<sup>31</sup> Therefore, the first decision point that I examine is the indigency hearing.

---

<sup>31</sup> During my court observations, I found that most non-custodial parents represented themselves. In the hearings that I observed, only about one-fifth of non-custodial parents had legal representation.

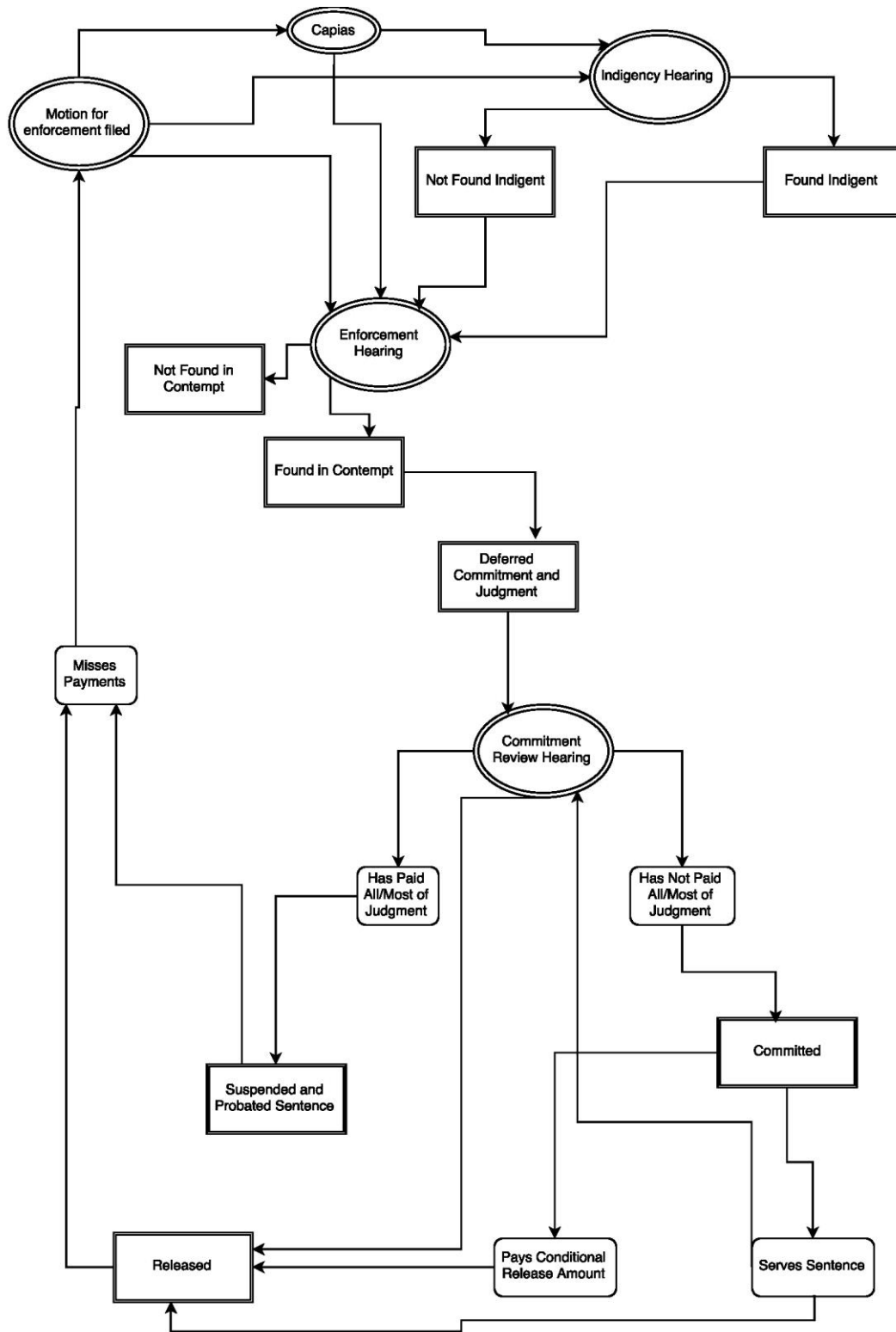


Figure 7. Process of jailing for child support nonpayment.

Note: Process begins with upper left corner “Motion for enforcement filed”.

After the question of legal representation has been settled, noncustodial parents are required to appear in court for their contempt hearings and if they do not appear, the state child support agency can ask for a *capias*—an arrest order—for failure to appear in court. The noncustodial parent who fails to appear can be arrested on this warrant. Once he<sup>32</sup> is arrested, he either stays in jail until his hearing, or pays bond<sup>33</sup> to be released, with the promise that he will appear in court for his contempt hearing. The second decision point that I examine is whether judges grant a pretrial release, or lower the bond on parents who testify that they cannot afford to bond out before their hearing.

Following a finding of contempt, the AG state prosecutor typically requests a deferred commitment. This means that the noncustodial parent is sentenced to jail for child support nonpayment, but rather than going to jail today, will begin his sentence several months in the future. This begins a probationary period during which the parent must pay what is asked during the interim or else face his sentence.

This next hearing is called a commitment review hearing. On the day of this hearing, the court will assess whether to jail the noncustodial parent or give him more time to pay. If the judge commits him, the noncustodial parent will be sent to jail and begin serving out his sentence of 180 days. The judge will generally set a conditional release amount, meaning that if the noncustodial parent is able to pay this amount of money, he can get out of jail.<sup>34</sup> The final decision point that I examine is what happens during a commitment review hearing. The judge

---

<sup>32</sup> About 80% of noncustodial parents are fathers (Census 2012), so I use “he/his” to refer to noncustodial parents and “she/hers” to refer to custodial parents for ease of reading. However, noncustodial mothers face the same legal process.

<sup>33</sup> If the parent was picked up on a warrant before the hearing, the money that this parent must pay to get out is called a bond. If the parent has been committed to jail following the hearing, the money that he must pay to get out is called a conditional release amount. Although these are different, they functioned in a similar way, with the payment of either amount resulting in a release from jail.

<sup>34</sup> Often, the judge in one of my jurisdictions would set the conditional release amount to be the same as the shortage that the noncustodial parent did not pay on the day of his commitment review hearing.

can decide whether the payments the parent has made are adequate and whether or not to give him another chance to pay before he serves out his sentence.

Before getting into the findings from each of these decision points, I will start by sharing how two defense attorneys that I interviewed felt about each of the judges in question.

### *Perceptions of judges*

Anne is a 44-year-old white attorney working for the public defender's office. The clients that she defends in child support court have been found indigent, and she has been appointed to represent some of them. Here, she compares the two Judges in Riley County:

Judge Lopez tends to be a little more willing to give 'em a chance. She will say things in her hearings like—she'll be lookin' at the record, and she'll be like, "You know, this is the fifth time that you've come to see me. Why should I give you a chance this time?" She's very much the, "Hey, I really don't wanna put you in jail, but you realize what position you're putting me in?" mindset. Certainly, Salinas is very much matter of fact, and I have heard the argument of, "What are your children gonna eat?" Anytime somebody tries to use the argument of, "Well, I've gotta eat, Judge." "What are your kids supposed to eat?" It's an instantaneous.

Compared to Judge Lopez, Anne finds that Judge Salinas is less willing to give parents another chance.

Lydia, a 37-year-old private attorney who owns her own firm, has spent time defending noncustodial parents in the courts of Judge Lopez, Judge Salinas, and Judge Warren. She generally agrees with Anne's assessment of the two Riley County judges:

Lydia: Salinas, she's not the nice one, I believe.... She's really kind of evil. I've seen her do a lot of unfair things.... That's where the system becomes a little unbalanced because it really depends on the judge. It depends on how pissed she is that particular day or how tired she is or how hungry she is or whatever it is.... There's big discrepancies between the judges....

Q: Which judge do you think somebody has the best chance with?

Lydia: Lopez.

Q: Lopez?

Lydia: Mm-hmm. Between the one you're gonna see in Masters County, Salinas, and Lopez, Lopez. She's almost too kind sometimes.



When I described to Lydia the design of my project, she shared her perceptions on the Judges:

Q: [With] what I've learned about the process, I wonder if that will be different with a different judge.

Lydia: It's similar prosecutors. They all share the same office but the judges are entirely different. [Judge Warren] is pretty tough. She's the one who sent my [client who'd] just had a baby to jail for six months. She's known as being one of the tougher ones.

Q: Even tougher than [Salinas]?

Lydia: About the same.

I had heard, not only from Lydia, but from other child support court officials, to expect that Judge Warren would be tough. Yet, I found her to be much less punitive than Judge Salinas. It was clear from these interviews with child support defense attorneys that they saw judicial discretion as an important factor in whether parents went to jail for child support. Below, I share excerpts from hearings that I observed in each Judge's court to demonstrate the way that their different approaches played out in the courtroom.

### *Indigency*

In indigency hearings, judges take testimony on a parent's income to see if the parent qualifies for a court-appointed lawyer. In criminal cases, courts determine indigency based on simple mathematical determinations (Task Force on Indigent Defense 2007). For both Riley and Masters County, the criminal indigency cutoff is set at 125% of the federal poverty line.

Unlike indigency hearings in criminal cases, I was surprised to learn that child support associate judges have no such guidelines (Lemkuil & Lemkuil 2010). In response to an email inquiry about what guidelines they use to determine indigency, Judge Warren explained it this way:

There are no "set" guidelines. I just take testimony on whether they are working or not, other people in their household and if they're working; any special or extraordinary circumstances (medical usually). If someone is in jail, then they generally will qualify, unless it's a short time and they've kept their job. If they are on disability they usually qualify. If they're working full time, they generally won't qualify. If they're not working,

but testimony shows they're not looking for work, they won't qualify. It's a case by case basis.

During the course of my fieldwork, I observed 36 indigency hearings.<sup>35</sup> Observing these indigency hearings revealed that nonresident parents often face a great deal of instability, both in their earnings and in their household composition. Many were part time, seasonal, or contract workers, with incomes that varied widely each month. Many didn't have their own home or apartment, but instead stayed with romantic partners or family members.

A minority of nonresident parents had more stable lives and jobs. Most of these stable parents that I observed lived in Masters County. When such parents had an indigency hearing, Judge Warren generally found them not to be indigent. For example, Kelly is a white female nonresident parent seeking a court-appointed lawyer in Masters County, who testified that she made about \$2600 each month. In finding her not indigent, Judge Warren explains:

A court appointed attorney taxpayers have to pay for – the rules are very strict. Someone working full-time at minimum wage wouldn't qualify for court-appointed attorney. You make well above that, so you don't qualify.

Here, Judge Warren pointed to “very strict” guidelines in a way that made it seem like there were written guidelines for indigency determinations that must be followed. Yet, she told me that there are no such written guidelines. When she talks about strict guidelines here, she is talking about guidelines that she holds and creates herself. It seemed as though she stuck to these guidelines. Of those who Judge Warren ruled not indigent, almost all had monthly incomes of \$2000 or more and testified that they worked full time.

Unlike Kelly, the majority of nonresident parents requesting indigency hearings in both counties had unstable jobs and households. Judge Warren found almost all of these nonresident

---

<sup>35</sup> 21 of these were in Judge Salinas' court, and 10 of these resulted in a positive determination of indigency. 10 of these hearings were in Judge Warren's court, and 6 resulted in a positive determination of indigency. The final 3 were with other judges in Riley County, and all resulted in a positive determination of indigency.

parents indigent. For instance, here she questions Michael, a Latino noncustodial dad, about his income, before finding him indigent:

Q: Are you currently working?

Michael: Not right now, but I help my dad.

Q: How often, how many hours per week?

Michael: I don't work for hours, but per day, doing lawn service.

Q: How much do you make per day?

Michael: On a good day, I can make \$100... If I work all day, I can make \$100. Half a day, \$50.

Q: Who do you live with?

Michael: My friends.

Q: Do you pay bills?

Michael: Not at the moment.

Q: Do you have a savings account, or other money saved anywhere?

Michael: No.

Q: Who's paying your bills? Your parents?

Michael: Yeah, they help me out right now.

Because of his unstable living situation and uncertain income, Judge Warren ruled that Michael qualified for a court-appointed attorney. To Judge Salinas, however, unstable home and work lives were insufficient for one to be named indigent.

If Judge Warren had her own indigency guidelines that she seemed to follow, Judge Salinas' mental guidelines were much harder for me to discern as an observer. Judge Salinas often assumed that parents worked full time unless they specifically testified that they did not, and she sometimes—but not always—ruled that a nonresident parent who lived with a romantic partner or family member must borrow money from that person to pay for a lawyer. Finally, there was often a great deal of misunderstanding between Judge Salinas and the litigants about which income to count—before taxes, before child support, or after? A few cases illustrate these differences.

First is Alejandro, a Latino noncustodial father. Like Michael, he works intermittantly, but he works as a day laborer delivering sheet rock. Here Judge Salinas asks him how much he makes each month:

Q: Your sheet says you earn \$7.75/hr and 0 income. What do you do?

Alejandro: Day labor... I've assisted in delivering sheet rock for one and a half years, off and on.

Q: How many jobs did you work last month?

Alejandro: Maybe 2... They would call throughout the month, maybe 3 days out of the week, next week 1 day, 2 days, 4 days - out of the week.

Q: How many hours?

Alejandro: I don't remember, maybe 3 there, 4 there, daily. It was a part time job.

Because of the inconsistency in his hours, it's hard for Alejandro to estimate how much money he makes. This results in a lot of uncertainty on the part of the judge, who must determine whether he is indigent. In addition to being unable to estimate their income, parents often misunderstood what the judge was asking them, resulting in a great deal of confusion.

Tomas' case exemplifies this confusion. He is a very young Latino man who was dressed in a baggy polo and jeans for his hearing. Right at the outset, there was a good deal of fogginess about just how much money he makes. On his indigency affidavit, Tomas wrote his father's workplace in the occupation slot. He says he's not employed, but helps his dad out working at a car dealership, and gets money that way. He also does some construction and landscaping work, with earnings around \$70-90 per day.

Q: You have 3 jobs?

Tomas: No, temporary jobs just to help out with money. I last worked 3 weeks ago.

Q: Nothing else since then?

Tomas: No.

Q: The last time you worked, it was for two days?

Tomas: Yeah.

Q: Or two jobs?

Tomas: Yeah. My last job doing landscaping was January or February 2015 [more than a year ago].

Q: You worked only 8 times in the past year?

Tomas: I might have told you that incorrectly.

Q: Do you work with your dad regularly?

Tomas: Yes, 2-3 times a month for the past year.

Q: So 24-36 times in the past year. Any other jobs?

Tomas: Yes, I recently got hired at McDonalds.

Q: Why does your occupation say something else?

Tomas: I haven't started working yet. I will start this week, making \$8.50 an hour, part time, 30-35 hours per week.

Q: How have you been surviving in the mean time?

Tomas: Working with my dad, working side jobs.

Tomas is clearly confused by the questions that Judge Salinas asks him, and by the end of the hearing it still isn't clear how much money Tomas has. Seeing how unstable his income is, Judge Salinas asks him if he is receiving help from anyone else:

Q: Who helps you?

Tomas: My brother, he pays rent and I stay there, I pay him \$50 every 2 weeks.

Q: You rent a room?

Tomas: No, I'm living with him.

Q: Have you asked him to help you hire a lawyer?

Tomas: I already have a lawyer for other legal issues. I'll be honest with you, I just got out of jail a few weeks ago and I'm trying to catch up.

Q: You've hired a lawyer?

Tomas: Not for child support but for criminal.

Q: Why not in this case?

Tomas: I can't afford it.

Q: You're paying the other lawyer how much?

Tomas: My brother is helping me out, I'm paying him back however I can, \$50 a month. My brother and father helped me bond out....

Q: You have resources, you have people who can give you jobs and a place to live and pay your bond. You need to ask them for help paying a lawyer. Maybe you can use the lawyer you already have.

Tomas is the clearest illustration of a misunderstanding, where some nonresident parents, especially those with low levels of education, may misunderstand the questions that the judge is asking them. Like Alejandro, Tomas cannot say definitively how much money he makes, because of its inconsistent nature. In addition, Tomas is already involved in the legal system through his criminal charges. He has already tapped into his family network for assistance hiring a lawyer, and testifies that they can't afford to hire another. This was also the case for Alejandro.

Learning that his wife pays their rent and that Alejandro's mother pays his cell phone bill, Judge Salinas inquires about their income:

Q: What does your wife do?

Alejandro: She works in corrections, she's a teacher at the state jail.

Q: Have you asked her to help you hire a lawyer?

Alejandro: She's helping me with a lawyer on my criminal case, she's doing everything she can.

Q: She won't help you with this case?

Alejandro: Not currently, she's quite upset with me, your honor.

Q: She refuses to help you?

Alejandro: She wants me to get the court-appointed lawyer...

Q: Your mom works too?

Alejandro: Yes, she is a nurse.

Q: Have you asked her to help?

Alejandro: She's too busy saving people to help... She is an RN....

Q: Does she know you're looking at an enforcement action?

Alejandro: I don't think so, she's so busy. I'm busy taking care of this and my criminal situation, trying to make sure everything's all right.

Q: Do you want to make a phone call?

Alejandro: I'm not sure if she'll do that, she's trying to take care of my sister.

Q: So that's a no. I'm not finding you indigent.

Even though Alejandro's wife was already helping him pay for a lawyer to fight criminal charges, and refuses to pay for another, Judge Salinas says that he doesn't qualify for a court-appointed lawyer, even though he doesn't think anyone will lend him money to hire a lawyer for his child support case. She has the same finding for Tomas. In each case, her determination that he is not indigent isn't based on his own income—which varies widely based on his inconsistent hours, and that he cannot predict—but rather on the income of someone else, even though he testifies that this other person won't pay for another lawyer.

Here, Judge Salinas is effectively ordering parties who aren't part of the legal motion to pay for the legal expenses, rather than being willing to provide a taxpayer funded lawyer. In contrast, Judge Warren and the other judges that I had seen presiding in Riley County are all

more generous with providing court-appointed attorneys. Judicial discretion, therefore, plays a large role in which parents are granted attorneys and which are not.

As illustrated through the misunderstanding between Tomas and Judge Salinas, many nonresident parents may find the child support enforcement system complex, and not fully understand the ramifications of their testimony. In these cases, representation by a legal professional would greatly assist their ability to successfully navigate this system. However, she rules that they do not qualify for appointed counsel and must hire their own lawyer if they want representation. Most do not hire a lawyer and instead waive their right to representation, appearing *pro se*.

Compared to Judge Salinas, Judge Warren and the other presiding judges in Riley County are each more willing to appoint counsel. It seems clear from this evidence that two litigants with similar cases will have disparate outcomes depending on which judge hears their case.

#### *Bond Lowering*

Another area where judicial approaches greatly differed was in the question of whether or not a nonresident parent would have to spend time in jail awaiting his hearing. These differences presented themselves at two later points in the life of a child support enforcement case. First, if a parent was already in jail and testified that he could not afford to pay to be released, the judges differed on their propensity to lower the bond to an amount that the parent could afford to pay. Second, the judges differed in their willingness to commit parents to jail versus giving them another chance to pay the child support that they owed. Again, Judge Warren was more willing to lower bond and less willing to commit to jail than Judge Salinas.

Travis, a white incarcerated noncustodial father who lives in Masters County, testified that he was unable to afford the \$1500 bond that had been set for him:

Q: Do you have any money to pay?

Travis: I have nothing.

Q: Is there anyone you can ask?

Travis: I could ask my boss for about \$500.... Now I have a job ...I'll be able to pay my wife whatever - she's been ripping me off to see my kids anyway.

Q: You've been ripping your kids off too. ...You don't steal from your kids because you're mad at your ex-wife. You have two kids who can't take care of themselves by themselves. Your priority is your kids and then everybody else. Not everybody else then your kids.

Travis: I'm learning that the hard way.

Q: Yes you are. I'll reduce the bond to \$500.

Even though Travis expressed hostility towards his ex-wife that Judge Masters clearly did not appreciate, she still agreed to lower his bond from the \$1500 that he couldn't afford to pay to the \$500 that he said he would be able to come up with. This was a pattern that I saw repeatedly by Judge Warren: it was clear that she was annoyed by hostility and reluctance to pay on the part of nonresident dads, but instead of punishing them for this testimony by refusing to hear their requests, she would lecture them harshly but grant their requests.

Yet, Judge Warren was not a push over. Nick, an incarcerated white noncustodial father with a poor payment record testifies that he can't afford to pay his \$2100 bond:

Q: Do you have any money to pay?

Nick: My wife has some money available. I don't have that full amount, but I can definitely make a payment.

Q: [Your payment history has not been good]. The order doesn't say pay and then not pay for six months, you don't get to pay your car payment, rent, every 6 months. [You're saying you] had to pay everybody BUT your son. We're done with that. You were down to \$800 being behind, we are now back to \$2300, there's been no progress, you're a hamster on a wheel. I'm reducing your bond to \$1500. If you bond out, pay your child support for November and December in full and bring a money order for \$500 in attorney's fees on December 9. Failure to pay on 12/9, - do you want christmas at home with your five-year-old [his other child that lives with him]? It's your priority.

Nick: Can I request \$1000 bond?

Q: No, your bond should be \$2200.

Again, Judge Warren lectures Nick like she did Will because of his inconsistent payment record. She is clearly frustrated with the situation, but decides to lower his bond from \$2100 to \$1500,



stipulating that he must be fully compliant with his next two months of payment or else he will spent Christmas in jail. When he further requests that his bond be lowered to \$1000, she refuses.

Most of the time that parents testified that they couldn't afford to pay their bond, Judge Warren lowered the bond to an amount that they said they would be able to pay. This was not the case for Judge Salinas. Mateo, an incarcerated Latino nonresident dad, testified to Judge Salinas that he could not afford to pay his \$2000 bond:

Mateo: I'm trying to see if you could lower my bond. The reason that I didn't show up last time is because the date was wrong on my paperwork... I recently got a new job.

Q: Do you have a lawyer, do you want to represent yourself, request a court appointed lawyer, what do you want to do?

Mateo: I don't know, get appointed counsel?

Judge, to the custodial parent [CP]: The question is whether I should lower his bond so he can get out and pay. Are you okay with that?

CP: It's up to you guys.

Q: The alternative is he stays in jail and could get court-appointed lawyer.

CP: That's up to him ultimately if he's gonna bond out or not (laughs).

Mateo: Right now, the only thing is that I do have a legit job, if I stay in here any longer...

Q: I don't know about that, my biggest concern is getting you a lawyer. I can reset to let you bond out and hire a lawyer. Or if you're not going anywhere, not bonding, out we can appoint you a lawyer.

Mateo: I would like to bond out and get my own lawyer, if I sit here any longer, I'll lose my job. I've never had a real job per se.

Q: You want time to get money together, bond out, hire a lawyer?

Mateo: Yes ma'am.

Q: That will be the order.

Mateo: My bond is still \$2000?

Q: \$2000.

Mateo: You can't make it \$1800?

Q: \$2000 is the bond.

Judge Salinas was in the habit of doubling the bond whenever a parent failed to show up to court more than once in a row. Mateo testified that the reason he missed his second court appearance was because the date on his paperwork had been wrong, but Judge Salinas was not hearing it. She informed him of his right to counsel, he asked for a court-appointed attorney, and she gave him two options: a) to bond out of jail and hire his own attorney, or b) to stay in jail and be

appointed an attorney. Mateo was requesting that his bond be lowered because he could not afford to pay \$2000, and clearly understood that choosing option a) would entail that Judge Salinas lower his bond so that he could get out of jail and hire his own attorney. This was not the case; she still refused to lower his bond. At the end of the hearing, Mateo still could not afford to bond out of jail, nor was he granted a court-appointed attorney. Whatever the cause of this misunderstanding, Mateo failed to get either of his requests met during the hearing.

The very next hearing that day was for Joaquin, another incarcerated Latino noncustodial father who also testified that he was unable to afford his \$1000 bond. In this case, Judge Salinas did not give him the options that she gave Mateo, but rather decided for him:

Joaquin: I have like \$33.

Q: Your bond is set at \$1000, a motion [for commitment] is before the court, in the interest of one child. I find you indigent since you can't afford to bond out. I will appoint you a lawyer for [your next appearance].

Joaquin: There's no way I can get out is there? Unless I come up with \$1000?

Q: Correct. [Your bond is] \$1000, if you pay that money [and bond out] you still have to come to court [for your next appearance].

Joaquin: I have to stay in jail until then?

Q: Yes.

Perhaps because of Mateo's misunderstanding of what the options that she provided entailed, Judge Salinas followed a different tact with Joaquin, whose case she heard immediately after Mateo's. When Joaquin testified that he couldn't afford to pay his \$1000 bond and asked if there was any way he could get out of jail without paying this, Judge Salinas said no. However, she did appoint him an attorney for his next appearance. Unlike Judge Warren, Judge Salinas was generally not open to requests that bond be lowered.

Inability to pay bond has been in the news lately, at least in the Texas Criminal Court system. As of this writing, the 5th Circuit Federal Appeals Court had recently found Harris County's bail system discriminatory (AP 2017). In June 2017, this ruling resulted in the release

of more than one hundred Houston jail inmates who were unable to afford bail. Clearly, considerations of ability to pay bond should be taken seriously by judges in all types of court.

### *Commitment or Probation*

A final key point on which the judges differed was with regards to whether or to commit a parent or give them one final chance to pay. Recall that deferred commitment hearings followed a probationary period of several months during which parents were ordered to pay their entire child support order each month. Again, Judge Warren acted with much more leniency than Judge Salinas, frequently giving parents who had not paid what they were supposed to pay by their court appearance one more chance to pay before they would be jailed. In contrast, even parents who testified that they could afford to pay the amount that they were ordered—but that they didn't have the money in their pocket—were often committed to jail by Judge Salinas.

In the following case, Eric, a white noncustodial father, had served 107 of his 180-day sentence for child support nonpayment. Previously, he had been released so that he could work and make payments. He came back to court today to review whether he would remain on probation or be sent back to jail. He managed to pay \$600 towards his debt in the past month. Here, Eric describes his difficulty working while his license is suspended:

Q: What do you have to do to get your license back?

Eric: I [owe money on] 7 tickets, [to get it forgiven] I have to serve time in jail, but I wanted to make sure I made it to this court date before that.

Q: Let's just reset it for early January to give you time to go get those tickets taken care of. If you get your license back, keep doing odd jobs like this, keep making payments like this, continue to progress, then you won't have to go back to jail.

Despite having months since his release that he hadn't paid anything, Judge Warren hears Eric's difficulty making money without a valid license and decides to give him more time to resolve these issues and make money. Even though she could have sent him to jail on the day of the

hearing, she decides to wait until January (four months later) to see if his payment record improves.

Judge Salinas not only divided her dockets into enforcement vs. establishment days, she also set one day a month as a "review docket", where she heard all of the deferred commitment review cases on the same day. In her court, the sum of money that these parents were supposed to pay by their review date was called a "shortage." Whether or not parents paid all or most of that shortage greatly determined whether or not Judge Salinas would incarcerate them.

Samuel is a Latino noncustodial father facing commitment. Like Eric, Samuel had been previously jailed for contempt on this action. The AG prosecutor is requesting that Samuel be jailed because he hasn't made any payments since he bonded out. His shortage is \$452, and the bond he would have to pay if he went to jail today is \$1000, bringing the total amount that he must pay today to \$1452:

AG: We're asking for commitment, he hasn't made any payments since [he bonded out last time], that's the only time he makes his payments....

Samuel: I just got the notification that the money's in my account, I do have the \$1000, I can pay, there's no ifs about that.

Judge: \$452?

Samuel: I'm sure my first paycheck will cover all that and even more.

Judge: Well, that's the amount that is previously ordered and I'm going to impose the sentence. If you pay the \$1452 I'll order your conditional release once again. We'll look at this case in June [three months from now]. You're remanded to the sheriff's office to serve out your sentence.

(Samuel sighs as he is cuffed and led away).

Even though Samuel testified that he had the \$1000 that he was supposed to pay in his bank account, and that he had a new job that would make it possible for him to pay an additional \$450, Judge Salinas rules that he be committed to jail today. She often did this as if she didn't believe parents who said that they had the money to pay what they owed. If Samuel does have the money, he can bond out as soon as he is arrested. Judge Salinas sees no problem with putting

him through the process of being arrested and having to bond out, even though it would save him a lot of time and hassle if she gave him the opportunity to go and get the money out of his account and transfer it to a money order<sup>36</sup> that can be put onto his child support record.

Similarly, Christopher is a Latino nonresident father in a deferred commitment review hearing. The AG prosecuting attorney asks Christopher if is able to make any last minute child support payments, and Christopher says that money is on the way but won't be here until the late afternoon:

AG: Any last minute child support payments?

Christopher: A family member will give me money, but he's out of town and won't get here until 3 pm. Another family member is on the way from out of town [with money] as well.

Judge: My concern is that he's not paying the balance of that shortage, the \$1226. Correct?

Christopher: Yes ma'am.

Judge, to custodial parent: Are you willing to wait?

CP: I'm waiting to see if he'll do what I said instead of lying to me all the time. How long will it take, Christopher?

Christopher: Until 5 pm.

CP: Can they wire it to you? Check it out, because we can't be waiting that much longer.... I'm willing to wait until today but if he doesn't get it by 3, 5 o'clock, he has to go. I've spent 5 years doing this.

Judge: If you can get the \$1226 you'll get out of jail. You're remanded to the sheriff's office. If you pay that amount today you'll get out today, if not we'll review this case in May [two months from now].

(The sheriff cuffs Christopher and leads him away.)

Again, Judge Salinas does not give Christopher until the end of the day to get together his \$1226 shortage. She shares the custodial mother's impatience, ruling that he must pay to get out of jail, instead of giving him the opportunity to pay to avoid going to jail.

---

<sup>36</sup> Acceptable forms for paying child support in Judge Salinas' court are money orders or cashier's checks. Cash is unacceptable.

## Discussion

Overall, Judge Warren's approach to child support enforcement court was much more lenient than that of Judge Salinas. If parents could choose which court they wanted to hear their case, clearly Judge Warren's court would give them better odds of a) being appointed an attorney, b) having their bond lowered to an amount they could afford, and c) being given another chance to pay before being sent to jail.

How much of this is due to judicial discretion and how much is due to jurisdictional factors? When I first designed this project, I had assumed that jurisdictional factors would be strong determinants of how punitive a court was. I theorized that counties with poorer residents, more nonwhite residents, and more conservative politics would be more punitive in child support court. Riley County is poorer and more nonwhite, while Masters County is more conservative politically. After doing the research, I found that the Riley County Judge that I observed the most—Judge Salinas—was the most punitive.

Riley County is about half white, a third Latino/a, and 10% Black. Yet, the noncustodial parents whose cases I observed were 15% white, more than two-thirds Latino/a, and 16% Black. Riley County has a median income of \$55,000 and many educated residents, but most of the parents whose cases that I observed were unemployed or worked in low-wage or intermittent jobs, such as restaurants, construction, or landscaping. Masters County, in contrast, has a population that is more than 60% white, a quarter Latino/a, and 7% Black, and the parents whose cases that I observed were 47% white, 32% Latino/a, and 21% Black. Masters County has a higher median income, of more than \$70,000. Of the parents whose cases that I observed, many had similar job opportunities as those whose cases I observed in Riley County, but a more sizable minority had steady work.

Differences between the populations of these counties and the characteristics of the parents whose cases I observed reflect a number of stratifying factors. The samples I observe are disproportionately nonwhite and low-income. This is because low-income and nonwhite parents are more likely to be single (Bogenschneider 2000; Harris 2011), owe child support (Census Bureau 2012; Sorenson et al. 2007), and be unable to afford their child support orders (Mincy & Sorenson 1998).

Readers may notice that most of the cases I have quoted in this chapter have been Latino in Riley County and white in Masters County. Given what we know about judicial discretion and race (e.g., Demuth 2003; Demuth & Steffensmeier 2004; Steffensmeier & Demuth 2001), it's likely no coincidence that the more lenient Judge also happened to hear more cases from whites. Yet, Judge Lopez who also presided over Riley County was described by attorneys as more lenient than either Judge Warren or Judge Salinas. I did not observe enough cases with the same characteristics across different judges to fully assess the impact of race/ethnicity on outcomes. Future research with larger samples should systematically compare the effects of judicial discretion across race/ethnicity and gender, in the civil contempt context.

Another organizational feature of these two counties that I think matters is the way that they divide dockets. Judge Warren heard all types of cases each day that she presided, while Judge Salinas divided her dockets into establishment days, enforcement days, and even deferred commitment review days. Hearing the same types of cases repeatedly on the same day may have led Judge Salinas to become tired of hearing the same reasons for nonpayment, hastening her impatience and making it more likely that she would treat them harshly.

Despite these demographic and organizational differences, I argue that judicial discretion mattered for outcomes. My interviews with defense attorneys and my own limited observation in

Judge Lopez's court suggests that Riley County residents would be better off having their cases heard by Judge Lopez than by Judge Salinas. One of the days that I observed in Judge Salinas' court, she was absent and a guest judge presided for the day. This guest judge was also more lenient than Judge Salinas. Further, Judge Warren, Judge Salinas, and Judge Lopez are presiding judges who travel to different counties and preside over other courts regularly. Although I did not observe these judges in these other jurisdictions, I would be surprised if demographic differences in these other jurisdictions drastically changed their approaches.

Several policy recommendations emerge from this research. First, perhaps judges should be discouraged from dividing their dockets in ways that cause them to hear the same types of cases on the same day, because this might diminish their ability to empathize with parents and treat them fairly. Second, civil courts should develop indigency guidelines the same way that criminal courts currently do. States should consider adopting uniform indigency guidelines across counties, so that the resource of appointed counsel is not distributed as arbitrarily as it appears to be today (Murphy 1991). Third, all of the child support presiding judges in a given state should communicate with one another about their practices of incarcerating parents over child support nonpayment. Perhaps they can together come up with guidelines that would ensure more uniform treatment.

Judicial discretion can be problematic for procedural justice when similarly situated individuals having committed the same offense—failure to pay court-ordered child support—are treated differently depending on which judge hears their case. In this chapter, I have examined three decision points: whether to appoint a lawyer, whether to lower bond, and whether to give one more chance to pay. Each of these has ramifications for inequality. First, research has shown that representation improves legal outcomes (Engler 2009). Making sure that government-funded



legal counsel is allocated fairly should also be of public concern. Second, pretrial detention has been shown to negatively affect legal outcomes (Williams 2003). When parents testify that they can't afford to pay their bond, failing to lower this bond to an affordable amount is an instance of punishing without conviction (Demuth & Steffensmeier 2004). Finally, spending time in custody has been shown to have negative consequences on earnings, employment, relationships, and child health and well-being (Wakefield & Wildeman 2014; Pager 2003; Turney & Wildeman 2013). Because of the potentially great individual-level ramifications of jailing for child support nonpayment, this sanction should not be applied arbitrarily.

## **Chapter Three. Flat Broke without Children: Policing Nonresident Parents in Child Support Court**

### **Introduction**

Following the second demographic transition, there have been significant changes to the composition of American families, including declines in marriage, increases in divorce, and rising nonmarital childbearing. Today, about half of all U.S. children spend time living with only one biological parent (Lin & McLanahan 2007). These changes in the composition of U.S. families have been unequally distributed across the population, with poor and nonwhite children disproportionately likely to live in single-parent households (McLanahan 2004).

Child support is one policy lever intended to address these changes in family composition and assure that both parents provide support for their children, whether children live with them or not (Committee on Ways and Means 2008). Child support enforcement personnel have a number of different mechanisms for recovering this debt, including initiating a judicial action against a parent who owes child support debt, finding them in contempt of court for failure to comply with their court ordered child support payments, and incarcerating them in county jail for up to six months (HHS 2002).

This chapter examines the legal process of finding a parent in contempt of court for child support nonpayment and sentencing them to jail. Drawing on ethnographic observations of 150 child support enforcement hearings, I investigate how child support policy is translated into practice and what it reveals about expectations of nonresident parents. I find that child support officials police nonresident parents' earning, spending, and family decisions, in a way conceptually similar to how welfare policy polices the behavior of low income mothers, but

which puts freedom at stake. By threatening jail, the civil charge of contempt of court shades into the criminal justice system, putting families at risk of the collateral consequences of incarceration. In this chapter, I use existing literature on how the welfare system constrains poor mothers' choices to argue that child support enforcement similarly polices nonresident parents' earning, spending, and family decisions.

Few studies use observational data to assess what goes on during child support enforcement hearings. Chambers (1979) conducted a mixed methods study of child support enforcement in Michigan between 1969 and 1974. Using administrative data provided by the Friends of the Court and observation in one county, Chambers finds that those who are jailed are more likely to work in blue collar jobs and have irregular employment histories, problems with alcohol, other criminal justice involvement, and ex-wives who receive public assistance. Blacks who owe child support arrears are also disproportionately likely to be jailed, compared to whites.

Brito and colleagues (2015) conducted ethnographic observation in civil courts in two states to examine attorney representation among low-income litigants facing contempt of court for child support nonpayment. Many of the parents that they observed had trouble finding good jobs, but court officials failed to recognize racial discrimination as a barrier that these majority Black noncustodial parents faced, instead painting them as willfully avoiding work. Court officials saw "indigent Black fathers as objects of social control, men who need to be encouraged, prodded, and even threatened with imprisonment to get them to seek work" (Brito et. al 2015, p. 3050).

Taking Brito et. al (2015) as a point of departure, I argue that court officials not only aim to make noncustodial parents find work, but that they also police these parents' earning, spending, and family choices more broadly. I argue that this is theoretically similar to the ways

that the state polices custodial mothers' earning, spending, and family choices through welfare policy. In both cases, the state's provision of welfare to children justifies policing both parents' choices in ways that middle class families would find unacceptable (Cahn 1999).

Previous literature has demonstrated how U.S. welfare policy constrains and punishes poor women's earnings, spending, and family choices (Collins & Mayer 2010; Hays 2004). In regards to earnings, TANF's "work first" orientation requires that women be working or actively seeking employment in order to receive payment (Hays 2004; Collins & Mayer 2010). In many cases, the program gives women little choice over what type of employment they will have. TANF also promotes workfare—labor that is unpaid because it is deemed "training"—for women who cannot find regular employment (Collins & Mayer 2010). In regards to spending, the racialized controlling image of the welfare queen was a central motivation behind welfare reform (Brito 1999; Collins 1990; McCormack 2005; Thomas 1994). The welfare queen was thought to spend her taxpayer-funded welfare payments on luxuries that even most tax-payers couldn't afford. This image devalues the care work of poor mothers, views black women as manipulating the welfare system, and blames black poverty on the pathology of black motherhood (McCormack 2005; Thomas 1994). Welfare queens are seen as both wasteful and undeserving because of their improper spending. Finally, TANF regulates women's family lives through marriage promotion (Collins & Mayer 2010), compelling women to comply with child support enforcement (Josephson 1997), and punishing nonmarital fertility. Many states have enacted "family caps" under which a child who is conceived while a woman is receiving welfare will not increase the mother's welfare payments (Hays 2004). There have also been documented cases of sterilization abuse of women receiving welfare. In some cases, women have been coerced into becoming sterilized out of fear of losing their welfare payments (Nelson 2003).

In this chapter, I argue that the legal process of finding a parent in contempt of court for child support nonpayment controls nonresident parents—usually fathers—in a similar way, but with a different penalty. Rather than facing loss of benefits for their work or family choices, noncustodial parents face the possibility of jail time. Most of the noncustodial parents that I observed who faced jail time for child support debt had former partners with public assistance involvement. Welfare involvement, therefore, subjects *both* parents to state sanction over their work and family decisions, with implications for the reproduction of inequality.

### **Data and Method**

This chapter draws on qualitative research that I conducted in two central Texas counties as part of a larger project. From February 2016 to January 2017, I observed more than 250 child support hearings across two counties. In this chapter, I focus on the time I spent in a jurisdiction I call Riley County,<sup>37</sup> an urban county in central Texas. (For more on my research methods, see the Data and Methods section of Chapter Two).

### **Findings**

In line with previous research, I find that the population of parents facing jail for child support nonpayment is disproportionately non-white and poor. Despite Riley County having a population that is 50% white, only about 15% of the nonresident parents that I observed were white (See Table 8). The vast majority were Latino/a (69%), and 16% were Black. Parents' average<sup>38</sup> income was less than \$30,000 a year and their average child support debt was almost two-thirds of this amount—parents owed an average of \$19,000.

---

<sup>37</sup> Counties have been given pseudonyms to preserve anonymity.

<sup>38</sup> Not all cases featured testimony on parents' income and debt, but I use all reported testimony on these amounts to calculate the average.

Characteristics of Parents		
	<i>N</i>	Percent of total
Noncustodial parent is incarcerated during hearing	56	37.33%
Noncustodial parent has previously been arrested for child support nonpayment	13	8.67%
Noncustodial parent has other criminal history	22	14.67%
Noncustodial parent has a lawyer	29	19.33%
Hearing indicates incarceration before, during, and/or after hearing for nonpayment	89	59.33%
Noncustodial parent is Latino/a	93	68.89%
Noncustodial parent is Black	22	16.30%
Noncustodial parent is White	20	14.81%
Noncustodial parent is a woman	10	7.41%
Total number of cases	123	
Average debt	\$ 19,284.33	
Average monthly total child support order	\$ 394.87	
Average annual income	\$ 29,692.88	

Table 8. Characteristics of parents observed in Riley County.

In total, 14% of the cases (21 out of 150) that I observed resulted in a commitment to county jail for a six month sentence. Yet, of the 123 different individuals whose cases I observed, almost 60% (89 out of 123) spent some time in jail for their child support nonpayment either before, during, or after the hearing. (See Table 9).

Characteristics of Hearings		
Type of hearing	<i>N</i>	Percent of total
Indigency <sup>39</sup>	27	18.00%
Found indigent	15	55.56%
Default <sup>40</sup>	10	6.67%
Review <sup>41</sup>	36	24.00%
Enforcement	16	10.67%
Other	19	12.67%
Outcomes		
Committed <sup>42</sup>	21	14.00%
Deferred commitment <sup>43</sup>	15	10.00%
Probated sentence	5	3.33%
Released <sup>44</sup>	10	6.67%
Reset <sup>45</sup>	44	29.33%
Recalled <sup>46</sup>	37	24.67%
Total number of hearings	150	

Table 9. Characteristics of hearings observed in Riley County.

The legal process of contempt of court for child support nonpayment often subjected noncustodial parents to harsh indictments of their behavior. Parents gave testimony under high stakes, as child support officials based their decisions about whether to give parents another chance on this testimony. When officials incarcerated noncustodial parents, they justified this decision by pointing to nonresident parents' improper earning, spending, or family choices.

---

<sup>39</sup> Indigency hearings are where a parent testifies about his income to see if he qualifies for a court-appointed defense attorney.

<sup>40</sup> Default hearings occur when only one party is present.

<sup>41</sup> Review hearings occur when a parent has reached the end of his deferred commitment timeline, and he must provide evidence of payment or else face jail.

<sup>42</sup> Committed parents are jailed.

<sup>43</sup> Deferred commitments and probated sentences are where parents are put on probation, where their child support is monitored for a set period of time.

<sup>44</sup> In these hearings, formerly incarcerated parents are released.

<sup>45</sup> Reset hearings are postponed for another day.

<sup>46</sup> Recalled hearings are postponed for a later time during the same day.

## *Earning*

The Judge and prosecuting attorneys policed how noncustodial parents chose to earn their money by critiquing their career and educational decisions. They chastised parents for deciding to leave jobs because they were unhappy or hoped to do something else with their careers, or for quitting work to pursue higher education. In the below exchange, the AG prosecuting attorney questions Daniel,<sup>47</sup> a Black noncustodial father giving his testimony through a Sign Language interpreter, about why he left his old job at HEB, a Texas grocery chain, for his current position:

AG Prosecuting Attorney [AG]: Are you still working for HEB?

Daniel: No, the last time I worked for HEB was March 2015, I quit that job because I got this new job, that's the job I'm working currently. I was part time but hired full time in January.

AG: How much did you make at HEB? ...

Daniel: I'm trying to remember. It was like \$13.25 per hour, something like that.

AG: So why are you working for \$10.62 an hour [now, at your new job] instead of \$13?

Daniel: I transferred to this job because I wouldn't have to work during the day and I had flexibility to finish school and work at night. I didn't have flexibility at HEB, [and] I was a full-time student. ...

AG: If school isn't part of picture [anymore], why do you chose a job that pays \$650 less [per month] than job you had before? That doesn't make sense.

Daniel: Well, as I said before, I was finishing school. Unfortunately I had to deal with some things with my family, I had to make a decision to stop going to school so I could get a full-time job and support my family.

Here, the AG attorney questions why Daniel decided to leave one job for another that paid less but provided greater flexibility. Because Daniel owes child support, he is subject to state intervention to enforce this support, and the state feels entitled to tell Daniel which kinds of jobs he should work.

Similarly, Beto, a Latino father who was later committed to jail for his child support nonpayment, had to defend why he stopped working a second job:

Beto: I only have one job, the amount that's been taken out [of my check for child support] hasn't been changed from when I had two jobs. The second job got too overwhelming, being on my feet from 10 am to 1 am every night. It was too physically

---

<sup>47</sup> All names are pseudonyms.



demanding, I was physically drained, I couldn't spend time with my son, so I gave my two weeks' notice to Walmart, from that point on I only had one job, but my child support order hasn't been changed.

Beto was requesting a downward modification on his child support, but the Judge wouldn't hear this motion because he didn't request it through the proper legal process. Instead, his hearing was about whether his probation should be revoked and he should serve his sentence for child support nonpayment. The Judge and prosecuting attorneys were critical of his choice to stop working a second job that he found physically overwhelming. Having been denied a court-appointed lawyer earlier that day, Beto was left to represent himself in his commitment hearing.

In hopes of leniency from the Judge, sometimes parents humbled themselves before her, promising to make better work decisions in the future. Miguel, a Latino father, was fired from his job at Taco Cabana because of a disagreement with his boss. After a lengthy lecture wherein the Judge criticized Miguel's life choices, a humbled Miguel promises to be a more compliant employee in the future:

Judge: If nothing changes then we're going to be in this same situation where you're looking at another 180 days in the county jail in the near future. So you need to figure it out, what is it? Are you feeling that you need to be punished?

Miguel: No ma'am.

Judge: Is life so bad that you'd rather just do your time?

Miguel: No ma'am.

Judge: Then what is it? ... What are you going to do about it?

Miguel: Get a good job, stick with it whether I'm disrespected or not.

Judge: How are you going to do that?

Miguel: Just realize that despite the job conditions, I'll just take it.

Judge: But how are you going to get a job?

Miguel: I've done several applications, I'm waiting to get called for interviews. I've had two so far, one for Chick-Fil-A and one for Popeye's. I'll continue wherever they're hiring and keep putting in applications. I'll get another job and stick with it.

Because Miguel has a court ordered child support order, the Judge thinks that Miguel was not entitled to disagree with his boss and risk getting fired. After the Judge's earlier criticism of his relationship with his child, his attire choices, and his employment decisions, Miguel is humbled

and aims to convince her that he will not let his own pride get in the way of being a good employee again. This tactic works for Miguel, as he is not sent to jail after this hearing.

In the next exchange, Antonio, a young Latino noncustodial father and student who drove more than eight hours to get to court, is trying to qualify for a court-appointed lawyer. Here, the Judge questions his decision to be pursuing a college degree rather than working:

Judge: [The State] wants to go forward [with the enforcement case against you]. This matter is different in that you choose to not work and go to school.

Antonio: I'm trying to do something with myself for my daughter....

Judge: I'm just trying to make sure that you understand that on a motion for enforcement, your liberty is in question... You can choose to go to school if you want to, but when you have a legal responsibility for a six year-old, and the state is supporting this child in some way, through public assistance like [welfare, food stamps] or Medicaid, the state gets involved because it's taxpayer money they're putting out to support your child.

Here, the Judge explicitly states that it is Antonio's child's public assistance receipt that justifies the state's intervention in his life, particularly her criticism of him for choosing to pursue a college degree rather than working for an immediate paycheck. The Judge is not interested in his long term career success; she only cares about whether he is able to pay the child support that he currently owes. Paradoxically, Antonio would likely have a much easier time paying in the future if he is able to obtain his college degree.

In sum, because of their court-ordered child support orders, the state has to power to critique these parents' employment choices—with jail used to punish them if they've made choices that officials deem unacceptable.

### *Spending*

In addition to critiquing how parents earn money, officials also police the way that they spend money—particularly, when they provide evidence of having spent money on something

other than their child support debts. Rent, food, and other expenses that these parents make are seen as selfish expenditures when they leave their child support unpaid.<sup>48</sup>

Here, the prosecuting AG attorney closes his argument by focusing on how Maria, a Latina noncustodial mother, spent her income tax refund:

AG: She had \$3400 in July 2015, [her child support debt] balance was \$1300 at that time, but she didn't use any of that money to comply with the court's order.... She wants to be the good person, give money directly to her children because it feels good, they thank you for it, you look better in their eyes, but that's not how child support works.... She used all that money to support herself, she used none of that \$3400 on [her child support debt].

Rather than using almost 40% of her tax refund to pay off her child support debt, Maria gave some of this money directly to her children as gifts and used the rest on her living expenses. Despite the fact that Maria was not working at the time and had little other way to make ends meet, the AG attorney still argued that her first course of action with that money should have been to pay down her child support debt.

Similarly, in the following exchange, the Judge tells Luis, a formerly homeless Latino noncustodial father, that he should reconsider his living arrangements:

Judge: If you used to be homeless, but [now] you have a nice apartment—

Luis: It's not nice—

Judge: It should be nice for \$900 a month! What else do you need so ... you can pay for your son? ... Since you're working now at a taco joint this may mean you have to get a roommate or a cheaper apartment. You have to make [your child support] a priority, are you willing to do that? Let's find out.

Even though Luis finally has a place to live after a spell of homelessness, the Judge disproves of how much money he is spending on housing. She suggests that he ought to spend less of his money on rent so that he has more left to pay down his child support debt.

---

<sup>48</sup> See Cozzolino & Williams (2017) for more about the role of child support in family budgets.

Similarly, elsewhere in Miguel's hearing (introduced in the previous section), the Judge makes explicit that, for these low-income parents, the tradeoff is often between paying the rent and paying their child support:

Judge: You can choose what to do with your money. You can choose to pay your rent or your child support. You make that decision. Every penny, every dollar that you get, that's your decision. You want to buy yourself a name brand hoodie to stay warm, that's your decision. Think about your son, maybe he needs something to keep warm, maybe he needs a place to live, maybe he's hungry.

The Judge pits Miguel's fulfillment of his material necessities directly against his son's, in the form of child support debt. She frequently saw parents who asserted that they didn't make enough money to both survive on their own and pay their child support; she painted this conflict as a zero-sum between the survival of the child and the survival of the parent.

Even dire poverty and homelessness were not sufficient to absolve parents from paying their court-ordered child support payment. In the following exchange, the Judge admonishes David, a Latino noncustodial father, for supporting himself at the expense of his child. David cries silently throughout:

Judge: I can understand that you want to consider yourself first, have a place to lay your head, a home, a car, all of these good things that everybody has. I know that you feel humbled because you're homeless - there's a reason for all that. That reason... is all the little tiny decisions that got you here. ... Based on what the mom's told me, [your daughter] loves you. They like to eat every day, children do. We're talking basics here. I don't know what got you to thinking of yourself first. You think you're the most important person in the world even though you have a dependent child who likes to eat every day. Maybe you need to get over that. Maybe the humbling experience will make you a better father, a better daddy where you call the child, maybe, I don't know. I don't know what would make a difference. I know that last time putting you in jail made the difference in terms of \$1500 but not monthly support payments, not even a dollar a day.

The Judge argues that the only tactic that she thinks could get David to pay his child support is to jail him, because last time they put him in jail for child support, he paid \$1500 to bail out of jail. Even though David has testified that he is homeless, the Judge still believes that putting him in

jail will help him come up with some money to pay down his child support debt. Because he has used whatever money he was able to come up with in the past to support himself, she is forcing him to change his spending behavior by making his freedom contingent on the payment of some of his child support debt.

The prosecuting attorneys and Judge are critical of the way that parents spend whatever (little) money that they have. Maria's direct gifts to her children, Miguel's rent, and the money that David spent on his own survival are all poor pecuniary choices according to the state. Because they owe child support debt, any money that they acquire should go to this debt first and foremost, rather than to any other necessary living expenses that these parents have.

### *Family*

Finally, the Judge and prosecuting attorneys are critical of the family choices that these noncustodial parents make—particularly their choices to engage in care work for family members and their decision to have more children. Like welfare officials, child support officials do not see care work as a valuable alternative to paid work. Like the family cap of welfare policy, child support officials believe that parents should not have additional children when they have state-involved child support orders.

Beto, a Latino nonresident father introduced earlier, had left a job to take care of a sick aunt. Here, the prosecuting AG attorney is questioning why he was caring for his aunt instead of seeking paid work. The AG attorney questions him rapidly, sometimes giving him little time to respond:

AG: How did you live while unemployed?

Beto: I was living off my parents' support.

AG: Did you ask your parents for child support money?

Beto: No. I don't like to get handouts, I have never been on assistance, I've never been on food stamps.

AG: But you found money for yourself during unemployment.

Beto: No, I helped out by taking care of my aunt and they supported me in exchange.

AG: You spent all that money on yourself and not your child.

Beto: No, I bought instruments and school supplies for my child. ...

In this case, Beto's child's mother is represented by an attorney. Here, the mother's attorney jumps in on the questioning:

Attorney: How many other restaurant jobs did you apply to when you were laid off?

Beto: None. I have had several different kinds of jobs and wanted to better my career....

Attorney: Why did you miss payments?

Beto: I wasn't working.

Attorney: And you didn't look for another job.

Beto: I was caring for a family member. I filed for home health care benefits [where the state will pay family members to care for the sick or aged] but it didn't work out....

Attorney: Your Honor, we want to commit him today for 180 days. If he would have gotten another job - I respect he was trying to help his family, but he could do that after work.

Although Beto and his family had decided on an arrangement where he cared for his aunt in exchange for them supporting him, the state and the mother's attorney don't find this to be an acceptable arrangement. Even though Beto had tried to get paid for the care work that he was doing, this didn't excuse him—in their minds—from pursuing other paid work, even if it meant that his sick aunt went without the care that she needed. Despite paying lip service to Beto's care work contribution, this contribution pales in comparison to his child support debt. Having other care responsibilities is no excuse for unemployment. Following this hearing, Beto was committed to jail to serve out his sentence.

Similarly, the Judge is critical of the care arrangement in Jaime's family. Jaime is a young, remarried Latino father who is trying to qualify for a court-appointed lawyer.

Judge: Have you talked to your wife about her helping you hire a lawyer?

Jaime: We are barely making it now. It's only her income, we are behind on child support. Hiring a lawyer would just get us in more debt.... I don't know if the lawyer would help, if it would be good enough to keep me from getting locked up.

Judge: You would rather have the taxpayers pay a lawyer to represent you? The only difference we're looking at is if the taxpayers or you paying for a lawyer.

Jaime: I don't have the money to spend on a lawyer...

Judge: You're wanting taxpayers to get you a lawyer. You make decisions about your income so you can stay home and care for your three and seven year old. You babysit.

Jaime: I'm looking for work too.

Judge: You're deciding with your wife who's going to be working. Maybe you need to call your wife again and see if she's willing to help you hire a lawyer.... You've made the financial decision to stay home with the kids. Not hire the lawyer.

Despite her lecture, the Judge grants Jaime's request for a court-appointed lawyer. But it is clear from the hard time that she is giving him that she disapproves of the way that Jaime and his wife have decided to arrange the division of labor in their family. The Judge paints Jaime as choosing not to work, even though Jaime has been unable to find anything other than temp work. Living off of his wife's income is unacceptable, and staying at home to care for his children is "babysitting." Like in Beto's case, child support personnel disapprove of care work—particularly when it is done by men and goes against traditional gender roles.

The state also polices noncustodial parents' decisions about how many children to have.

In the following passage, Jake, a Latino father who was later committed to jail, describes the new job he is about to start after months of unemployment.

Jake: I've just been hired at nonprofit making \$40,000 a year. I was supposed to start on Wednesday [but I've been in jail awaiting this hearing.] I'm able to come up with \$1000 right now. This is the best I can do due to my two felony convictions. It's taken a lot of no's [on job applications] to get this one yes finally.

Judge: What were your felonies for?

Jake: Two charges of first degree aggravated assault with a deadly weapon. I served 5 years. I was incarcerated at age 17 and came home at 22...

Judge: The mother and state say you only pay when you're ready to go to jail.

Jake: The only thing I can say about that is that I've had people help me out... The company I work for is loaning me the money to pay for this before I even start getting paid. It's been hard for me to get a job... I also will say that this is a perfect opportunity that would put both of our lives on the path for something better, me and my children. I don't have a problem with paying child support, but before I've never had the opportunity to pay continuously because of lack of employment. When I did get employed, I lost it because I was arrested for child support.

Judge J: Well, you had these children after your conviction correct?

Jake: Yes ma'am.

Judge: You knew you had these children, this responsibility, and felony conviction. It's not the children's fault that you went to prison. You're the one who didn't pay the support which caused your arrest, so that's your responsibility right?

Jake: Yes ma'am.

According to the Judge, Jake should have known better than to have children if his felonies meant he was unable to make his court-ordered child support payments. Even though he testified that he had a good job lined up (after years of struggling to find full time employment), the Judge still sentenced him to serve out his six month sentence. Jake's case provides a clear example of the very real ramifications of how parents' behavior is seen by child support officials.

Similarly, the Judge is unhappy with the decisions that Sara has made about her fertility.

Sara is a Latina nonresident mom who attends the hearing while under custody of the county jail.

After Sara's attorney requests leniency from the Judge, this is her response:

Judge: I'm full of leniency and consideration for a person who takes responsibility for their actions, a person who has the intention or plan to obey the order, but I don't see that, I don't hear that in this case and it is a concern of mine. Mom having three families, that's a personal decision that she made, to have the responsibility for these three children. The state is the one that brought the child support action to court, yet there's some kind of an effort to blame dad for having her in jail, where payment record is way outside the bounds of acceptable standards. Leniency why? Because she has three families? Every time that you have an additional family, the existing family is a part of that equation. You don't ignore the existing family just because you have a new family, the existing family continues to need help from both parents. I'm looking for a basis so I can show judicial discretion, leniency. My biggest concern is that she's not taking responsibility for her actions, I'm not sure why... Blaming dad, second father, third father, second, third, or first family, they aren't the ones ordered to pay support.

Sara has three children with three different fathers and doesn't live with any of them. Her attorney had asked for leniency on the basis of her poverty, which the Judge did not grant. The Judge sees "no basis for leniency" since Sara continued to have children, even though she could not afford the child support orders on the children she already had. The Judge's decision to sentence Sara to six months in jail could be interpreted as punishment for continuing to have children she could not afford to support.



Alvaro, a Latino nonresident father who is under custody of the county jail during his hearing, tried to convince the judge to release him by referencing his other children:

Alvaro's attorney: But putting him in jail will put him behind on his other child support cases.

Alvaro: I have a four year old, I'm not trying to be in and out of jail for the rest of my life.

Judge: You also have a fifteen year old. I'm sure you're doing right by your other children but I cannot forget one of your children just because you have others. I'm here for all children.

Frequently, parents facing contempt mentioned that they had other children living in their household—even though they were noncustodial parents to one of their children, they were custodial parents to other children. As above, this strategy tended to backfire, because the Judge thought it was irresponsible of them to have responsibility for additional children when they could not afford to pay child support for the children they already had.

In sum, child support officials scrutinized noncustodial parents' earning, spending, and family choices. This scrutiny had serious ramifications, because child support officials cited nonresident parents' bad decisions as a justification for incarcerating them.

## **Discussion and Conclusion**

Like welfare recipients, noncustodial parents face similar government scrutiny of their spending, earning, and family choices. Choices deemed improper by state officials carry the sanction not of losing benefits, but of being incarcerated. Jailing for child support nonpayment has serious ramifications for the reproduction of inequality.

The risk of ending up in child support court to begin with is unequally distributed across race and class. Although the population of Riley County is about 50% white, only 15% of the noncustodial parents whose cases I observed were white. Most of the parents I saw in court were low-income, and many testified to prolonged spells of unemployment. Despite these economic

difficulties, they faced a scrutiny about their economic and family choices that is unheard of for middle class families (Cahn 1999). Changing jobs, pursuing education, paying rent, or choosing to stay home to take care of a young or sick family member are decisions that anyone might make. But in the context of child support enforcement, these decisions are policed by government officials—with serious consequences. Child support officials used earning, spending, and family choices as justification for putting parents in jail. By criminalizing nonresident parents' work and family choices, child support officials may be bringing individuals in contact with the criminal justice system who never would have encountered it otherwise.

Child support enforcement court is a civil entity, but the sanction of jail for child support nonpayment blurs the line between the civil and criminal justice systems. Incarceration and associated legal processes lead to substantial and long-lasting debts that grow over time (Harris 2016; Harris, Evans & Beckett 2010). Child support orders don't stop while a nonresident parent is serving time, whether he is incarcerated for child support nonpayment or for any other reason (HHS 2002; Reynolds et al. 2009). On the first day of each month that he spends in jail, his monthly child support comes due and adds to his total amount of child support debt. Upon release from jail or prison, child support debt is typically the largest debt that a former inmate owes (Reynolds et al. 2009). Jailing parents for child support nonpayment *increases* their child support debt, through the continued accrual of unpaid payments while a parent is incarcerated and unable to work, calling into question its effectiveness as a child support enforcement mechanism. Indeed, we saw the example of Jake being sent to jail for his unpaid child support, losing out on the first opportunity at a full time job that he has had in years.

These conclusion are necessarily tentative, because data for this chapter come from observations of one Judge in one county in Texas. In the previous chapter, we have seen that judicial discretion plays a very large part in child support enforcement, particularly the decision of whether to incarcerate today or give parents another chance to pay down their child support debt. We have seen that other Judges in different jurisdictions can be more lenient on parents, particularly when parents are low-income. Furthermore, Texas is exceptional in terms of its high criminal justice population (Perkinson 2010) and large child support collections (OCSE 2014). We can thus expect that Texas will be in the upper part of the distribution for jailing noncompliant parents. Yet, because we lack national data on the frequency of jail for child support nonpayment (McCann 2016), and child support nonpayment is meant to be one of the more rarely utilized enforcement mechanisms (Solomon-Fears, Smith & Berry 2013), a highly punitive Judge in a highly punitive state is a valuable site for studying this particular mode of enforcement.

In this court, child support officials policed parents' earning, spending, and family decisions. Daniel's decision to value job flexibility over pay and Antonio's pursuit of higher education, for instance, are choices that anyone might make. Yet, their court-ordered child support debt enables child support officials to scrutinize these decisions, jailing parents who make decisions that officials disagree with.

The consumption decisions of poor people are often scrutinized and distrusted (Brito 1999; Collins 1990; Cozzolino & Williams 2017; McCormack 2005; Thomas 1994). Indeed, the controlling image of the welfare queen was part of the justification for cutting welfare funding (Collins 1990). Similarly, child support officials distrusted the budgeting choices of nonresident parents. In Miguel's hearing, the Judge admitted that the tradeoff these parents made was often

between paying their child support and paying their rent. Under such dire economic circumstances, parents must choose whether to pay child support and risk homelessness, or pay the rent and risk jail.

Child support officials also policed parents' family decisions—in particular, their unpaid care work and multi-partner fertility. Child support officials were especially critical of unpaid care work when fathers were the ones doing it, like how the Judge called Jaime a “babysitter” for staying home with his children. It is likely that these men suffered a gender penalty for staying home and doing “women’s work” instead of performing the traditional fatherhood role of breadwinning (Bernard 1981; Hays 1996; Marks & Palkovitz 2004). Future research should investigate how gendered parenting expectations play out in child support enforcement court. Likewise, child support personnel criticized parents for having children by more than one partner. Multi-partner fertility is extremely common among unmarried parents—Carlson and Furstenberg (2006) estimate that more than half of all unmarried couples in their data had multi-partner fertility. Family complexity complicates child support enforcement efforts (Meyer, Cancian & Cook 2005), making these child support officials' jobs more difficult. However, jailing parents as a result of their family choices is not going to reverse the trend of increasing family complexity (Guzzo & Furstenberg 2007). When nonresident parents live with new children, incarcerating them for the child support debt that they owe to their other children hurts both their resident and nonresident children.

## Chapter Four. Litigating Relationships: Gendered Conflicts in Child

### Support Court

#### Introduction

When parents terminate their romantic relationship with one another, continued interaction can be conflict-ridden, especially when relationship wounds are still fresh. Because a child creates a continued link between them, parents often must continue to communicate with one another, bargaining and hashing out accommodations with respect to financial and care responsibilities for children. Child support represents an interesting case in the post-separation family, as it is a legal set of obligations that bind nonresident parents to their children, and—by extension—to their ex-partners.

Because most custodial parents are women and most noncustodial parents are men (Grall 2016), gendered opinions and discourses are central to understanding relationships between parents who have broken up. This chapter investigates how legal motions for child support enforcement become tools for inter-household bargaining in situations of conflict. Seeking a child support enforcement action is a tool that (mostly) women use against (mostly) men in order to compel child support payments. Yet, mothers and fathers have very different understandings of a) *why* these tools are used, and b) *how* these tools are used.

This chapter proceeds as follows. First, I provide background on the child support enforcement process and review existing literature on parental conflict and its connection to the child support enforcement system. Next, I describe my methods for sample recruitment, and data analysis. After, I present the findings in three parts: 1) noncustodial father's views on why and how women seek child support enforcement, 2) custodial mother's views on why child support enforcement is necessary and how well they are able to use it , and 3) how gender and custody

interact to shape these belief systems. I conclude with policy suggestions and directions for future research.

## **Background**

There are two parties with the power to establish and enforce a child support order: the child's custodial parent and the state. The state has the power to establish and enforce child support orders in cases where the custodial parent is receiving public assistance (e.g., TANF, or Medicaid in some states). In public assistance cases, some portion of the child support paid by the nonresident parent is kept by the state to reimburse the cost of welfare provision. When this child support is unpaid, child support debt accrues to the state, which has the power to collect on this debt even if the custodial parent does not agree (HHS 2002). About half of the child support caseload consists of families with a history of current (10%) or prior (40%) welfare receipt (OCSE 2014a).

The custodial parent also has the power to establish and enforce a child support order. Any child support that is not owed to the state belongs to the child's other parent. In 2014, three quarters of all child support debt was owed to the custodial parent, with the remaining 25% owed to the state (OCSE 2014b). The custodial parent has the legal power to seek child support enforcement over any of the debt that she is owed.

The child support enforcement system can make nonresident parents pay by garnishing their wages, intercepting their tax returns, putting a lien on their property, or even incarcerating them. Filing a motion for enforcement through the state Attorney General (AG)'s Office is a legal motion that seeks that nonpaying parents be found in contempt of court for their failure to obey court-orders mandating their child support payments. In Texas, this contempt of court is punishable by six months in jail and/or ten years of probation.

### *Post-separation conflict*

This state intervention into the private sphere of the family (Josephson 1997) provides an interesting case for examining family conflict. Because women usually have custody of children, disputes over legal matters in family court tend to fall along gendered lines (Kaganas & Slacter 2004). Fathers' rights activists aim to increase fathers' access to their children within a system they see as biased against men (Coltrane & Hickman 1992; Natalier 2012), while feminist scholars tend to focus on how many legal principles in family law reproduce men's domination over women, particularly in families with domestic violence (Elizabeth, Gavie, & Tolmie 2012). Like divorce court, child support enforcement court becomes a venue in which parents pursue their gendered relational interests (Elmore 2010).

Prior research suggests that custodial parents seek establishment and enforcement of child support when there is conflict between parents (Edin 2000; Waller 2002; Waller & Plotnick 2001). This conflict can stem from a range of causes, from one parent re-partnering or having children with someone new (Edin & Nelson 2013), to disagreement over how child support payments are spent (Cozzolino & Williams 2017; Natalier & Hewitt 2010; 2014). In contrast, mothers with good relationships are less likely to instigate their own enforcement actions, or cooperate with the state's efforts (Rich, Garfinkel & Gao 2007; Waller 2002; Hamer 2001).

The fact that these child support enforcement efforts carry a possible sanction of jail adds gravity to the situation for parents considering using these tools, and for parents who fear that their ex-partners might use these tools against them. This makes legal child support enforcement an extreme case for examining parental conflict after a break up. Previous research about men on the run from the law has shown that romantic partners are sometimes willing to use the threat of jail in their relationship negotiations (Goffman 2014). Other research has found that women with

criminally-involved partners are hesitant to call the police on them, even though they may be ambivalent about, or even frightened of, their partners (Comfort 2008).

Building on prior research, this chapter looks at parents' perceptions of how legal child support enforcement processes are enlisted in gendered conflicts post break-up. For nonresident fathers and resident mothers, attitudes fall along gendered lines. Nonresident dads see custodial moms' pursuit of child support enforcement as stemming from personal animosity and revenge, while custodial moms say they pursue child support actions because of men's irresponsibility. Fathers see mothers succeed with these efforts because of what they identify as systemic bias against men in child support court. Mothers find the child support enforcement system hard to use, particularly because of men's tactics of avoidance. Yet, the attitudes of mothers and fathers whose gender and custody status do not align—mothers without custody of their children and fathers with custody—complicate these gendered discussion, raising questions about how custody and gender (both independently and in combination) affect child support outcomes.

## **Data & Method**

Data for this chapter come from 31 semi-structured in-depth interviews I conducted as part of a larger project about parents who go to jail for child support nonpayment. As a part of this project, I conducted fieldwork in child support enforcement court in two counties in central Texas. The respondents whose stories I share in this chapter were recruited from child support court in one site, a place I call Riley County. With the permission of the child support Associate Judge, I made a recruitment announcement inside the courtroom before docket call. I introduced myself as a university researcher seeking to hear parents' experiences of child support court, offering participants a small gift card incentive. Across six recruitment sessions in summer 2016, I was able to recruit 31 participants: 15 custodial parents, 14 noncustodial parents, and two



defense attorneys who have represented noncustodial parents in enforcement court. For this chapter, I focus on the interviews I conducted with parents.

The sample is diverse both racially and socio-economically (See Table 10). About a quarter of respondents were white, 45% were Latino/a, and 30% were Black. About 60% of respondents had a high school diploma or less, and average annual income was about \$25,000. Respondents' ages ranged from 23 to 51, with an average age of 40. All but two (87%) of the custodial parents were women, and all but two (86%) of the noncustodial parents were men. Gender didn't track perfectly with custodial status, allowing me to explore variation through the experiences of noncustodial mothers and custodial fathers. Compared to the group of custodial parents, the noncustodial parents were somewhat less educated and less affluent. Overall, half of respondents reported that the nonresident parent had been found in contempt for nonpayment. Half of the noncustodial parents had served jail time for their child support debt, while only two of the custodial parents reported that their former partner had been jailed for this reason.

	All Parents	%	Custodial Parents	%	Noncustodial Parents	%
Male	14	48.28%	2	13.33%	12	85.71%
Custodial Parent	15	51.72%	15	100.00%	0	0.00%
Age	38.97		40.07		37.79	
Black	9	31.03%	5	33.33%	4	28.57%
White	7	24.14%	4	26.67%	3	21.43%
Latino	13	44.83%	6	40.00%	7	50.00%
Less than high school	8	27.59%	2	13.33%	6	42.86%
HS only	10	34.48%	6	40.00%	4	28.57%
More than high school	11	37.93%	7	46.67%	4	28.57%
Average income	\$24,051.72		\$27,333.33		\$20,535.71	
Had to miss work for court	21	72.41%	9	60.00%	12	85.71%
Had to find child care for court	12	41.38%	7	46.67%	5	35.71%
NCP found in contempt	15	51.72%	8	53.33%	7	50.00%
More than once?	9	31.03%	4	26.67%	5	35.71%
NCP gone to jail for CSNP	9	31.03%	2	13.33%	7	50.00%
More than once?	7	24.14%	1	6.67%	6	42.86%
N	29		15		14	

Table 10. Demographic summary of interviewees.

In this sample, I have four dyads: cases where I've interviewed more than one parent from the same family. Melody and Joey, Gavin and Reba, Sean and Riley, and Gerardo and Diana each have children and a child support order together. In addition, four respondents were interviewed in group interviews, cases where I recruited two members of the same family at once and they preferred to have a group discussion as opposed to separate interviews. Gerardo and Diana were interviewed together, as were Reba and her new partner, Jackson.

As we saw in Chapter One, the sample of parents who end up in child support court are less affluent and more racially diverse than any average custodial and noncustodial parent. Nevertheless, these are the families who are in court and subject to incarceration as an enforcement mechanism.

Interviews focused on three themes: parents' child support orders and payment histories, parents' experiences with child support enforcement and its consequences, and parents' feelings about enforcement policy. They were audio-recorded and transcribed, lasting about an hour on average. Transcripts were coded using the qualitative data analysis software Max QDA. Coding followed the process outlined by Emerson and colleagues (1995). I developed initial codes covering such topics as parents' relationship history, court experiences, and opinions about using jail to enforce child support, and wrote memos about emerging themes. Using the code retrieval tool from Max QDA, I was able to pull all of the codes covering each particular theme, printed out the quotations, and synthesized the codes by hand.

## **Results**

### *Dads*

Dads saw moms' pursuit of child support as spiteful. They said that moms most often went to the AG's office when they were angry, or trying to get back together with the dads. They saw the child support enforcement system as a set of tools that only women had access to, enabling women to seek revenge against men, but that didn't provide any legal tools for men to use against women. The dads identified child support enforcement as a venue in which interpersonal conflicts could be fought, but saw themselves as disadvantaged in this arena.

### *Women are spiteful*

Although either the custodial parent or the state has the authority to bring a child support enforcement action against a noncustodial parent, most of the nonresident dads that I interviewed focused on the role of their former partner in bringing a child support action. When moms filed an enforcement action against dads, dads attributed it to mothers' feelings of personal antagonism against them.

David, a 39-year-old Latino father who owns his own drywall installation business, explains how and when his ex chose to enforce child support against him:

She put me on child support. It's been a tough battle because throughout the whole thing, I've always had my sons or I've provided for them without having to give money to child support, through her directly or whatever. Then for whatever reasons that she would get mad or whatever, she would just say I didn't do that or I wouldn't do that. Or she would call child support and they would enforce the rules on me 'cause I wasn't giving the court, directly, the money. I was giving it directly to her at times.

David told me that he had been to jail for his child support arrears about eight times. Each time, he said it was because his ex was mad at him. Because David had chosen to pay his children's mother informal support, he didn't have a good record of formal payment for his AG case. This lack of "receipts" over his payments meant, in his view, that he was at the mercy of his children's mother's whims. Whenever she was mad at him, he said, she would call the AG and make a complaint about his nonpayment, which would trigger an enforcement action.

George, a 40-year-old Latino father who works as a driver for an airport shuttle service, had a similar experience. After a period where he paid informal support to his child's mother, he said that she opened a child support order against him when she found out that he was in a new relationship:

Before I was put on child support, I told my ex, "I will pay half of the expenses. All you gotta do is tell me. That's it." We were cool that way for six months. She finds out I have a girlfriend [who] is now my wife, boom. Child support.

Q: That's when she put you on?

George: Mm-hmm. I mean, that was 17 years ago. We're cool now, but I wish they wouldn't let it go so easy. "Oh, he's dating somebody? Oh, I'll get him." That's basically what it was....

George feels that his ex put him on child support out of jealousy, because he was in a new relationship six months after they had broken up.

I asked David what kinds of things he thought made his children's mother mad enough to call the AG. He said it was because she wanted to get back together with him:

It seemed to me she wanted to be back together. That's what it seemed like to me because the way I worked for a living and she just, still to this day, doesn't have a job and doesn't work for a living. I had a vehicle. She didn't have a vehicle. I

didn't live with my mother. I lived on my own. I guess she just wanted to have a better life...

Because she wanted to get back together with David and share the income that his business made, David says that his children's mother would get angry with him when he didn't want to get back together. To get back at him, she would complain to the AG and trigger an action that sent David to jail.

Mark, a 38-year-old Black father who works as a dishwasher, had a similar story about ending up in jail over child support:

I guess that's why she did this, 'cause she's kinda upset that I'm not like one of her old ex-boyfriends and still trying to come back around and sleep with her.... So I guess this is how she getting back at me, by sending me to jail....

Q: Why does she want you to go to jail?

Mark: Probably 'cause I'm not—all I can come up with is, I'm not talking to her. I'm [not] doing the date your boyfriend thing, like coming over late at night, trying to—"let's work things out." ... [There's] a lot of anger and hate, I think. On the mom's part. 'Cause they could—they have the whole control of everything 'cause they're signing the papers.

Like David, Mark identifies the "anger and hate" that his ex is feeling about his unwillingness to get back together with her as the reason that she is pursuing child support against him. Even though his ex has received public assistance and the state has the authority to enforce child support against him without her approval, at the end of the day, he thinks that it is her personal animosity that explains why he has been sent to jail.

Juan, a 34-year-old Latino father who worked on air duct maintenance, owes about \$30,000 in total child support debt. Custodial parents can forgive debt that is owed to them, although this wouldn't zero out the debt for most dads, who owe child support

debt to the state as well. Juan sees animosity and a desire for control as the reason why his ex has not chosen to forgive his debt:

It sucks, 'cause my ex can—she can forgive the arrearages. She can forgive them, but it's almost as if she likes me being stuck in this situation where she can play with my life and determine whether or not I go to jail. You know what I mean? ... There's evil women out there. There are evil women out there. There are women like my ex who is just scorned and doesn't want to let things go and have the ability to make your life hell and do so.

According to Juan, his ex should forgive the debt that he owes her, but she's unwilling to do so because she wants to be able to control him. The child support enforcement system gives her the power to do so. Juan continues, "Women feel entitled sometimes. They know how the laws are ... written and how they work and who they work for."

These men identified the reason that women were able to use child support as a tool in their battle against men as resulting from systemic bias. Men saw this bias existing throughout all stages of their legal involvement: they saw custody determinations as favoring women, felt that the AG didn't listen to them, and were upset that child support was so much easier to enforce than visitation.

#### *The system is biased*

Fathers identified this systemic bias as starting as early as the custody determination. Gavin, a 40-year-old white father who worked as a contractor, shares the following experience that he had talking with a family court judge:

Let's flash back ten years ago. District judge, I think he just left this last year. Head district judge, Riley County precinct five. You can go back and look up his name. Good old boy. I'm before him. I have evidence beyond evidence beyond evidence that my ex-wife is not capable, is not fit, is not the type of person you

want raising a child. Illicit things online, and I'm not talking just foolin' around a little bit. I'm talking a career of doing in the porn industry behind closed doors. I go to that judge, and he hears my case, and he hears what's going on, and he knows what we're angling for. He stops proceedings, and he pulls me back in his office, and he says, "Son—," big old heavy set good old boy from west Texas, but one of those—wears the cowboy hat, pants up—good old boy. He said, "Son—," he looks over his glasses at me. He goes, "Son, I know what you're goin' for. You're not gonna get it here." I said, "What do you mean I'm not gonna get it here? It's the right thing." He said, "Son, I don't care what the right thing is, and I don't care what the wrong thing is. The law states that if your child is under the age of six years old, not matter what, he goes to the mother."

Although Gavin believed that he was more "fit" to be a parent than his ex-wife, Gavin reports that the district judge who handled his divorce didn't give him a chance, because the law made custody determinations on the basis of gender. Gavin's memory of this talk with a district Judge highlights something that many of the fathers believed to be true: that family law was systematically biased against men, particularly in regards to the key issues of custody and visitation.

Enrique, a 49-year-old Latino father who works as a landscaper, had a similar belief about his custody situation:

I think the State of Texas is not fair about [custody] 'cause it's not always the mom that's better for the child. If I wanted to fight—if I had the money to fight for my little boy, I would most definitely have my little boy because I know that my baby's mother, several years back, was doing things that were not legal ... but I didn't have the money to do it.... I didn't have the proof to do it, but I could've [proven it] and then I would've had [custody of my son], and then she would be the one paying me, but instead the moms get the rights right away. Right off the bat, it's the moms. Well, wait a minute. How come you don't look through her past and you're looking through mine? How come you're not seeing how stable she is and how stable he is? I could say, "She got four kids, four baby daddies. I have one child. Did y'all even look at that?" No. Look at her criminal record and look at my criminal record. Yeah, I have a DWI years ago, way before my son



was born. Look at her criminal records. Domestic violence. Public intoxication. And that's while my son was born, and right away, she gets the right of way for him. That's why I think the State of Texas does wrong because they automatically assume the mom's the best for the child and that's not true in all cases. There's always an exception.

Like Gavin, Enrique believed that he would make a more stable parent<sup>49</sup> than his child's mother and wished that he could have gotten custody of their son. He sees himself as a more stable parent figure than his ex, who has "four baby daddies" and a longer criminal record than he has. If the court had put the same amount of scrutiny on her as he felt they put on him, he thinks that he would have won custody. But, he didn't have the money for a legal fight.

Most of these men saw the state's attorney (AG) as representing the mom in court, providing her with de facto free legal representation, while they had to hire their own attorneys.<sup>50</sup> The AG maintains that they are a neutral party, representing the state of Texas rather than either parent (Texas Attorney General's Office 2015), but their interests often overlap with the interests of the mother, particularly in cases where the father owes child support debt to both the mother and the state. There can be disagreement between the state and the custodial parent in child support court, and in these cases, who the Judge ultimately sides with depends on judicial discretion. However, it's clear to see why these fathers see the AG as representing the mother, even though it technically doesn't.

---

<sup>49</sup> See Kaganas & Slacter (2004) for more about parental fitness in gendered custody disputes.

<sup>50</sup> They could also request an indigency hearing to see if they qualified for a court-appointed lawyer. For more on this, see Chapter Two.

Sometimes in enforcement cases brought by the state, the Judge would ask custodial mothers how they felt about whether a father should go to jail. Here, Mark describes how his child's mother responded to that question:

That [situation has happened] a couple of times. [The Judge] was like, "What do you want to happen?" [My ex would] say, "I want him to go to jail." Why are they giving [her] that right? 'Cause every time I go to jail, every time anyone go to jail, they start all the way over.... But I can't trust [my ex] no more 'cause she went in court and lied. It wasn't fair. The judge—I think he didn't listen. She told me before. She like, "Who you think they gonna believe, you or me? I'm white and you're Black." That's what she talk about. I'm like, I hope they'll believe the truth.

Mark felt that the Judge didn't listen to him, and instead took his ex's word at face value, even though he says she lied. While Mark hoped that the Judge would believe "the truth," his fears that the Judge won't believe him, because he's Black and his ex is white.

Racism, combined with what these men see as systemic bias against them in the court system, make Mark wary that he won't be treated fairly in the enforcement system.

Darren, a 32-year-old Latino father who works as a welder, believes that the enforcement system is also biased because men's failure to pay child support is punished more harshly than women's violations of visitation orders. Feeling that his children's mother is withholding the children from him, Darren feels that he has no legal recourse to take care of this, because he can't afford a lawyer:

What gets me is how I could be on child support and not be able to see my kid. The state won't do anything about that. I gotta get a lawyer and fight that, but the state would be easy to—they'll be in a hurry to take someone's money, though. You know what I'm saying?

When Darren tried to ask for help enforcing his visitation order in court, Judge Salinas told him that visitation was a separate matter and he would have to hire a lawyer to get it enforced. Generally, Judge Salinas was not willing to entertain complaints about visitation and access while she was hearing a case about child support compliance.<sup>51</sup> This frustrated these noncustodial parents, making them feel discouraged about their ability to compel their exes to let them see their children.

Gavin, too, felt this way about visitation:

There's no database that our civil protectors can pull up and go, "Oh, Gavin is saying the right thing. Here's his documentation. Here it is. She's in violation. Oh, we need to tell her that she either lets the child go, or she goes to jail." They won't do it. ... Even if you have a divorce decree, they're not—[the] woman's not required to follow it.

Like Darren, Gavin was frustrated about what he saw as a systemic disadvantage that men had in family court. If child support enforcement court was a venue in which gendered conflicts played out, men saw themselves as handicapped.

### *Moms*

Moms, too, saw gendered conflicts playing out around the topic of child support. Moms were frustrated with what they saw as an unequal burden between themselves and their children's fathers, whom they found unreliable and untrustworthy. Moms saw child support as one of the only avenues in which they could try to make dads take some

---

<sup>51</sup> All of the parents I recruited came from Judge Salinas' court. Therefore, it is possible that perceived bias over the enforcement of visitation might be lower among fathers in jurisdictions with Judges who were more willing to hear these cases. For instance, Judge Warren, who proceeds over the same court in a neighboring county, often let parents air their grievances around visitation and access. She would chastise custodial parents for withholding children, telling them that they too could be found in contempt of court if they did not follow visitation orders.

responsibility for supporting their children. They saw child support as a tool to be used to make dads contribute, but found the process of seeking enforcement to be time- and labor-intensive—particularly because of dads’ efforts to avoid the system.

*Dads are irresponsible & untrustworthy*

The custodial mothers that I interviewed generally had very low expectations of their child’s fathers. They tended to see men as irresponsible, shirking their responsibilities for children, and leaving the burden of providing for children on women’s shoulders.

Mae is a 43-year-old Black mother and grandmother, who had custody of all three of her children when they were young, and who now has custody of one of her grandchildren. Reporting on one of her children’s fathers, Mae saw him as an unrepentant baby-maker:

He got over 13 kids and steady havin’ them. I’m like, “Why you steady having kids if you don’t wanna take care of them? You don’t wanna pay no support and nothing for them, you don’t never be there to help raise them, so what is you steady making babies for and don’t wanna pay for them?” ... My child, he’s like the second oldest of them. After that, it’s like [my ex] just went baby crazy, just making them.

Mae doesn’t understand why her child’s father had so many children if he didn’t have any intention of caring or providing for them. She saw child support enforcement as a potential tool for forcing responsibility on men like her child’s father.

Like Mae, the sentiment that men were unreliable was particularly pronounced among many of the other Black custodial mothers that I interviewed. Taryn, a 36-year-

old Black mother who works as a certified nurse's assistant, felt that her son was entirely her responsibility:

He don't help me with my kid. I realize now that don't do it again, and that's my son.

Q: What do you mean?

Taryn: That's my baby. That's my kid. Mama's baby. Daddy's maybe. You know what I mean? He don't have to be around. That's my child.

Taryn saw fathers as optional, but mothers as essential. She says that she learned her lesson about trusting men, out of her own experience with her child's father and the behavior she saw in men around her. She continues:

I really believe in my heart that he thinks that we had the baby, but you get to keep the kid. That's how they all believe, I believe. I have four brothers. I mean, they just drop a baby off and keep moving. ...I don't care how much you in love and how much you talk about it and how much y'all make plans to be together forever. After you had a baby, that's your baby, and I'm going to the next. That's how they think. I have four brothers and a deadbeat baby daddy.

Q: They all do that?

Taryn: Yeah. ... I think the kids suffer the most. The mama get the short end of the stick, and we have to still come home and take care of the kid.

Taryn's ex isn't the only man she knew that failed to take care of his kids. She says that her brothers acted the same way with their children. Although she calls her ex a "deadbeat baby daddy," she doesn't see him as exceptional. At the end of the day, Taryn finds that women, not men, are responsible for children.

Zoey, a 23-year-old Black mother who works nights at a post office, identified social pressures and peer groups as reinforcing the unequal burden of care between men and women:

It's common for a man to take off. ... None of his friends judge him. They'll still all party with him every weekend. If I was to right now give up my daughter and not take care of her, all my friends would judge me. It'd be like, "You're supposed to be a mom." As a dad, it's like, "Eh, you don't [have to] be in [your child's] life. That's common. I'm not gonna judge you for it. That's your life." [In this] society, it's just women have to step it up no matter what. [Men] don't have to be responsible.

If she had given up custody of her daughter, Zoey expects that she would have faced reprisals in her social circle. Her ex's decision to be uninvolved with their daughter carried no similar consequences, something that Zoey believes contributed to the gender inequality that she sees in her community.

The white and Latina mothers that I interviewed also found their children's fathers to be irresponsible, but didn't elaborate on this to the same extent that the Black mothers did. Black mothers' had extremely low expectations on their children's fathers.

Against this backdrop of unreliable men, child support enforcement emerged as one of the only possible ways for holding fathers accountable. Tammy, a 52-year-old white mother who recently lost her H.R. job, sees the child support enforcement system as potentially teaching responsibility to both her former partner and to her teenaged son:

It's not just for satisfaction of the other spouse who's having to support everything and everyone. Not only that, and unfortunately, children learn by that, as well. It teaches them not to live up to your responsibilities. It's so important. I live up to mine. If I didn't, my son wouldn't have food in his mouth, or a senior ring on his hand, or his school fees paid. He'd be in a mess. It's hard to force responsibility, but it doesn't hurt to try.

Tammy sees the child support enforcement system as a potential device that she can use for making her son's father contribute to him economically. Mae, the mother and

grandmother introduced above, sees potential in the child support enforcement system to change the behavior of noncustodial parents:

You know what? I feel like if they enforce it, these men would stop running around making babies and these women who make babies that run off and leave them... either you gonna fix it and don't have no more [children] or you gonna know that you gotta stay there and take care of them. Make their life miserable. [Got to] make them pay.

Mae has custody of her special-needs grandchild, since her son is in prison and her grandchild's mother was unable to care for a child with disabilities. Mae's frustration with nonresident parents focused on her children's fathers, and her grandson's mother—she does not blame her incarcerated son for his inability to pay support. Against the others who she sees as unwilling non-payers, Mae wants to use the tools of the child support enforcement system to make them contribute.

The fathers identified spite and anger as reasons that their exes sought to enforce child support against them. According to mothers, these reasons aren't right. Mothers see fathers as unreliable, irresponsible baby-makers, and identify child support enforcement as one of the few tools that they have to try and make dads contribute. However, to these moms, bringing a child support enforcement action isn't as easy as the fathers make it out to be. It requires a great deal of time and effort—particularly due to fathers' attempts to play the system.

#### *Challenges of using the child support system*

Melody, a 42-year-old white unemployed mother, explains the labor that she puts into trying to make the AG enforce her ex-husband's child support order:

[I would be put on hold when I called the AG's office] every day, almost three to four days a week saying, okay, this is [my ex-husband's] new phone number. I got at least the name and the city of his friend he's staying with.... He's a deadbeat dad. It's like even the caseworker that was working with me, at court on Monday he said, "I really don't like this guy. He is just irresponsible." ... I am kind of frustrated. It just seems to be going on and on and on. It's all been based on his slyness to avoid responsibility in the legal system. Me and my family have put so much money into getting this taken care of.

Melody reports the difficulty that she has had trying to enforce her ex-husband's child support order. These efforts include calling the office repeatedly, doing detective work to track down where her ex was staying, and putting a lot of money into this effort.

Lara, a 35-year-old Latina homemaker, identifies her tenacity at seeking child support enforcement as crucial for seeing any kinds of results:

Every year. I stay on top of it. I call a lot. I know that I have friends that also have cases and they don't get money. They don't call. They don't make an issue of it at all and nothin' gets done. I think the only way things do get done is if you are [regularly calling]. Even if you are getting [public] assistance. Even if you are getting assistance, I think you have to do your part. I wish there was a way I can call the IRS the same way I call child support and try to get them [to garnish his wages]. It's his friends business. The friend [says], "I can't garnish. He doesn't work here." I know one of the [child support] officers was familiar with excuses and schemes [nonresident parents] try to run.

Unlike her friends, who Lara says aren't thorough enough in their pursuit of child support, Lara "stays on top of it," calling the AG's office regularly whenever her ex hasn't paid. Having received Medicaid herself, Lara is aware that the state has the right to enforce child support for public assistance cases. But she says this doesn't mean that they will do it. Even for public assistance cases, Lara says that the custodial parent's role in pursuing child support is necessary for seeing results. Like Melody, she tries to track



down information about her ex's current whereabouts and work place, in hopes that the AG will track him down.

In addition to the time and money costs of enforcing child support, Taryn identifies a relational cost. Her ex is currently in prison on unrelated charges, but Taryn has a bad relationship with his family. One reason that her son's paternal grandparents aren't involved in his life, says Taryn, is because she sought child support against her son's father:

For Black men, bringing the law into any kind of situation is like betrayal. The worst thing you could ever do. "You put the people [the system] in my life." You know what I mean? "Yeah, but you ain't dropped off a sucker [lollipop] in four years. What do you want me to do?" ... That's almost like snitching. Calling the police.

Her pursuit of formal child support for her son exacted a relational and a moral cost for Taryn. Cognizant of how the criminal justice system disproportionately imprisons men of color, yet at the same time feeling that she had no other options for getting what her son needed than to file for child support, Taryn suffers the consequences of this action through her son's paternal grandparents' refusal to be involved in his life. Taryn's ex has a number of criminal justice entanglements, yet it is this civil entanglement that his family identifies as problematic.

Like Lara and Melody, Taryn says that her ex played the system to get out of paying what he should have paid in child support when he worked at IHOP before he went to prison:

His sister is a general manager [at IHOP], so I think she worked some stuff out for him not to be able to pay. [She reported to the AG that he made] something like three bucks an hour.

Q: She made it so that it looked like he wasn't making money?

Taryn: Right. That's just what I believe. 'Cause I don't know any way they [would have ordered him to pay only] \$75.00 a month.

While Melody's ex-husband avoided child support by trying to keep his current address hidden from her so he wouldn't be served with court papers, and while Lara's ex worked for a friend who denied that he worked there so that his wages couldn't be garnished, Taryn's ex's sister reported that he made lower wages than he really did make, so his support order would be lower. In response to their efforts at pursuing child support, these women believed that their exes did everything they could do avoid paying.

Men believed that women sought child support out of spite and animosity, and that they had a gender advantage in child support court. Women saw child support as one of few possible tools that they could use to force irresponsible dads to contribute, although using this tool had costs. So far, this discussion has focused primarily on noncustodial dads and custodial moms—the most common custody arrangement in the U.S. (Grall 2016). Yet, I interviewed four parents who had a custody arrangement where the mother was the nonresident parent. Below, I examine how their experiences complicate the narrative.

#### *Custodial dads and noncustodial moms*

Jackson is a 51-year-old white carpenter. He had custody of his (now-adult) children all throughout their childhood, where an AG record-keeping error made it so that he was ordered to pay child support despite having custody of the children. He described

his repeated attempts to remedy the situation that continue to the present, and mentioned his desire to bring a lawsuit against the AG to get back the money that he erroneously was made to pay into the system. Given this experience, you might think that Jackson would side against the AG whenever possible. However, this wasn't the case. Talking about his experience as a construction foreman, Jackson describes his response to men on his team who were trying to avoid their child support orders:

I'm working construction—back when I used to work commercial. There might be a hundred people on the job site. Half of them would disappear because all of a sudden, the child support found out where they work and was gonna garnish their wages. They walk in the office and quit their job. “Hey, child support people found me. Gotta go.” They'd leave and I'm like, “What's wrong with you?” “I'm not paying her.” “Why? Is that your kid?” “Yeah.” “Pay.” I said, “I'm paying and I've got custody. That's the least you can do is pay. You don't help, hell.”

While the ordeal that Jackson went through with the AG might have made him into a men's rights activist who helps other men avoid involvement with the AG, instead, Jackson recognized the importance of child support and called those who do not pay “deadbeats.” His experience as a father who both cared for and provided for his children on his own made his situation similar to many of the women that I interviewed whose ex-partners hardly paid. In addition, Jackson is engaged to Reba, a 51-year-old white clinician and custodial mother whose ex-husband is Gavin (introduced above). Through his relationship with Reba, Jackson became frustrated with Gavin's nonpayment. In their interview, Reba and Jackson paint a very different picture of the situation than Gavin described in his interview. In particular, they are frustrated with the leniency that they

perceive the Judge as providing Gavin when she did not go through with a threat to arrest him in court:

Jackson: That's happened the last five times she's been down there, though. [The Judge says] "[Gavin] will not leave here unless he pays her." First, it was \$3,000—

Reba: "X" amount of money.

Jackson: —then it's \$5,000. He walks out every time. They let him.

Reba: Yeah. The last time, they said he owed me \$5,000, he put \$500 in and they let him walk.

Perhaps because of his relationship with Reba, and his experience of Gavin's nonpayment, along with the child support avoidance of people in his construction crew, Jackson believes in the importance of paying child support, despite his bad experience with the AG.

Alice is a 35-year-old Black noncustodial mother who works in a warehouse. Like Jackson, she, too, says she is the victim of AG system dysfunction, though hers is even more egregious. After becoming pregnant at age 13 by an older man, Alice was too young to be granted legal custody of her daughter, who was instead raised by the man who impregnated her. Years later, when her daughter became pregnant too, Alice learned that her daughter had been raped by her own father, who was subsequently convicted and sentenced to 30 years in prison. Despite this grave offense that he committed, Alice owes him \$13,000 in child support debt. She has gone to jail for this debt more than ten times. Her experience with the AG is similar to the fathers' experiences that I described above. Despite her efforts to make the AG understand the situation that she is in, she finds them

completely unresponsive and attributes this to her status as a noncustodial parent. Like Mark, Alice says that the AG only listens to custodial parents:

It's every time the custodial parent calls, whether they're angry with you or they want more money, they get a court date. They get whatever they ask for. When it comes to the non-custodial parent, [child support officials] feel like you're complaining and you're not trying to take responsibility.

Alice had to go to court and bring check stubs to prove that she had been paying her child support, to thwart the AG's latest effort to incarcerate her. Like the noncustodial fathers, Alice finds that the AG sides with the custodial parent—even though, in her case, he is a rapist.

The noncustodial fathers describe mothers as using child support as revenge when nonresident parents rebuff their romantic advances. Alice had a similar experience.

Describing a conversation with her daughter, Alice says:

“Basically, if I was not willing to do what he—whatever he wanted me to do, then I was not able to see you.” That's not what you do to people. He's like, “You don't sleep with me or you don't marry me, then I'll continue to lock you up and I will continue to make your life miserable,” and he did.

Because he wanted to be in a relationship with her, Alice's ex punished her by enforcing child support and sending her to jail for the debt that she owed him. These threats seem especially sinister when they are coming from a rapist. It might be easy for some readers to dismiss men's allegations that women enforce child support out of revenge as gendered tropes about “women scorned,” but hearing the same story from the point of view of a sexual abuse survivor complicates this interpretation of the men's stories.

## **Discussion**

There are complex power dynamics at work in child support enforcement court. First, the legal child support enforcement system exists, in part, because of the failure of nonresident fathers to voluntarily contribute sufficient support to their children. Less than half of all parents due child support receive all of the payments that they are owed, and 75% of all child support cases owe some debt on this support (Grall 2016; OCSE 2014a). This nonpayment leaves women to shoulder most of the responsibility for caring for and supporting their children (Cozzolino & Williams 2017, Hamer 2001, Waller 2002, Edin & Nelson 2013). In this context of unequal responsibility, the child support enforcement system emerges as one potential remedy for making dads do their part. This is a case of the law coming to the aid of a disempowered group (custodial mothers) and allowing them an accessible process to partially remedy the situation (by making noncustodial fathers contribute) (Josephson 1997). Indeed, this is the way the custodial mothers that I interviewed see the situation.

Non-custodial fathers see the situation quite differently. While moms identify paternal irresponsibility as their motivation for seeking child support, dads believe that moms are seeking child support out of spite, revenge, or to try and make reluctant fathers get back together with them. Fathers see mothers acting out extremes of spite and revenge, on par with the saying that “hell hath no fury like a woman scorned” (Kaganas & Slacter 2004; Adams 2006; Elizabeth, Gavie, & Tolmie 2012). The child support system is an interesting case for studying parental conflict after separation. In few other

cases is one ex-partner compelled by law to pay money to his ex's household, against whom he might still harbor resentment. In few other cases, too, does one ex-partner have a legal process she can instigate that can land her ex in jail. Hence, fathers understand mothers' actions through the lens of interpersonal conflict. To add insult to injury, these fathers see the system as biased in favor of mothers (Coltrane & Hickman 1992), because she can seek a child support enforcement action against him without having to hire a lawyer, while he has no comparable free recourse for enforcing visitation against her. If dads see child support enforcement as punishment of relationship slights, he cannot have "revenge" through enforcing visitation against her unless he has the resources to hire a lawyer. Because they cannot respond legally, men may try to avoid the child support system as a tactic of resistance. Women say that this avoidance inhibits their ability to effectively use the tool of child support enforcement to make men pay.

I found some variation in parents' experiences by race. The Black custodial mothers were those most vocal and expressive about fathers' irresponsibility. In 2015, two-thirds of Black children lived in single parent households, compared with a quarter of white children and 42% of Latino children (Kids Count, 2017). Given how single-parent families are distributed, it makes sense that these gendered conflicts might be most extreme for Black families. There are other vulnerabilities that affect the experiences of the Black parents that I interviewed. Mass incarceration is a major contemporary driver of racial inequality, with Black men making up a disproportionate share of prisoners (Alexander 2010). Thus, like Taryn, other Black women might be especially conflicted

about seeking enforcement through means that can lead fathers to jail. Mark, too, pointed to racial discrimination in the legal system, when he reported that his ex had lied in court and gotten away with it, because the Judges believed her testimony as a white woman over his, as a Black man.

The experiences of custodial fathers, like Jackson, and noncustodial mothers, like Alice, complicate the story. In their interviews, Jackson and Alice shared some of the same frustrations and interpretations of their situation as others with the same custody status, but different genders. These findings add complexity to the picture of gender inequality, but they are necessarily limited. Because the majority of the parents that I interviewed fit conventional gender/custody categories, I can only provide limited evidence on how the experiences of parents whose gender and expected custody status do not align. Future research should look at the experiences of greater numbers of custodial fathers and nonresident mothers to see what their experiences can add to our understanding of gendered conflicts in family court.

There are other limitations to these findings as well. Interviewees were all recruited from the same Judge's court. Judicial discretion plays a large role in legal methods of child support enforcement. As part of the larger dissertation, I discovered that the Judge in my other field site was more amenable to adjudicating visitation conflict in her court. Custodial father interviewees from this other court may not believe so firmly in systemic bias. Future research should compare experiences of gendered conflict in child



support court across jurisdictions, to examine the longer range consequences of judicial discretion.

This chapter argued that child support enforcement court becomes a venue for parents' gendered conflicts, post-break up. Men believe that women seek enforcement out of spite and that systemic bias against men gives women the upper hand. Women believe that child support becomes one of the only tools that they have to force irresponsible men to support their children. Yet, they have trouble using child support enforcement tactics because of men's efforts to evade the system. Rather than providing neat solutions to the messy problems of inequality and relationship conflict, this chapter dives into the experience of child support enforcement, exposing what it can reveal about gendered conflicts among parents.

## Conclusion

You lose your life. You lose everything. It's harder to open up bank accounts, because you're in the negative, or automatic payments and stuff. You gotta get a new car. You basically have to start all over again. You go away for six months, you get out and you have to start all over again.... Your life is impacted in every way by getting locked up.

- Juan, 34-year-old Latino father

In this dissertation, I have explored the understudied phenomenon of jailing for child support nonpayment through assessing its fiscal basis, distribution, process, and meaning. In addition to what I have presented, going to jail for child support nonpayment also has negative consequences on the lives of nonresident parents—and their children. Recall the story of Jake in Chapter Three who lost his first ever salaried job because he went to jail. Jake is not alone. Many of the respondents that I interviewed shared similar stories of loss and instability stemming from the time they spent in jail. Juan, quoted above, lost his apartment, car, and job when he went to jail. I heard similar stories from Mark, George, and Alice (all introduced in Chapter Four). In addition to having negative consequences for himself, Juan's incarceration also impacted his new partner and residential child:

Q: When you're not there, how do they make rent and everything if you can't—  
Juan: They [don't]. They jump around, friend to friend's house, and stuff like that. My mom would take them in for a little while. My sister would take them in for a little while.

Juan's incarceration for child support led to residential instability and economic hardship for his current partner and youngest child.

The experience of having one's parent locked up was also traumatic for the children of other interviewees. Gavin, introduced in Chapter Four, told me how frightened his 12-year-old son was to hear that Gavin might go to jail:

[He] cried his little heart out.... He's like, "Mom said you were goin' to prison, and I talked to mom this morning before getting on the bus. She said you were going to prison."

When Gavin came to pick up his son for visitation, his son cried because he was afraid Gavin would not be able to get him because he would be incarcerated. George, too, shares a story of emotional tumult when his son witnessed his arrest:

George [Jr.] answered the door. The guy scared the shit out of him. He's like, "Dad, some officer is here for you." Why are you gonna traumatize a kid like that, you know?

In addition to its economic irrationality and unequal distribution, going to jail for unpaid child support leads to negative consequences both for the nonresident parent and for children.

There is a large literature on the collateral consequences of incarceration in prison and jail on children and families (Comfort 2015; Pager 2003; Turney & Wildeman 2013; Wakefield & Wildeman 2014). In line with this research, I find negative collateral consequences of incarceration for child support nonpayment. Child support enforcement aims to increase child wellbeing by ensuring that noncustodial fathers contribute to children's material wellbeing. The negative collateral consequences of jailing are working in direct opposition to this aim.

## **Review of findings**

Chapter One posited jail for child support nonpayment as an emerging, understudied form of poverty governance. In this Chapter, I found that about 14% of nonresident fathers owing child support spent time in jail for this debt by their child's ninth birthday. I found that relationship factors and public assistance involvement affected an individual's progression through the process of becoming at risk of jail for child support nonpayment. Of nonresident fathers who owe child support debt, dads with multi-partner fertility and dads who owed more than \$10,000 in debt were more likely to spend time in jail.

Chapter Two looked at the role of judicial discretion at three crucial points in the life of a child support enforcement case: whether or not a parent is found indigent and provided with a court-appointed attorney, whether or not a parent is granted lower bond so he can be released while he awaits trial, and whether or not a parent is given another chance to pay his debt before being ordered to serve out his sentence. I find that Judge Warren from Masters County more often appoints counsel, lowers bond so parents can be released before trial, and gives parents another chance to pay before ordering that they serve their sentence. Despite the similarity in the cases presided by Judge Warren and Judge Salinas, they had very different approaches. Overall, parents who ended up in Judge Warren's court fared much better than those in Judge Salinas' court.

Chapter Three concentrated on Judge Salinas' court to show how the court process can be used to police nonresident parents' earning, spending, and family

decisions in ways conceptually similar to how welfare policy polices the decisions of poor mothers. The judge and prosecuting attorneys were critical of parents' job choices, budgets, and decisions to have more children or stay at home to care for family members. Unlike those outside the child support system—who make the same personal decisions every day—the parents who end up in child support court are subject to state sanction about these choices.

Chapter Four turned to my conversations with custodial and noncustodial parents who I met in child support enforcement court. I found that former partners saw child support as a tool for adjudicating gendered relationship conflict. Men saw women's use of the system as stemming from spite, jealousy, or a desire for revenge, while women saw the system as their only hope for making reluctant men contribute to their children. Men saw the system as biased against them and perceived that their exes could easily use it against them, while women found the system slow, cumbersome, and easy for men to evade. The stories of noncustodial mothers and custodial fathers complicate this gendered picture, showing complex power dynamics across gender, custody status, class, race, and ethnicity.

### **Problems with the system**

Most child support policy is based on the idea of the deadbeat dad: one who is able to pay his support, but unwilling. Indeed, this is the justification for using jail as an enforcement mechanism. Yet, one overwhelming finding of this dissertation is that most

of the parents who go to jail for child support nonpayment don't pay because they're unable to.

Many of these child support orders may have never accurately reflected a parent's income. In my observation in Masters County, I saw a good number of child support establishment cases. Many times, the orders were established *in default*, meaning that the noncustodial parent was not present. When the AG lacked wage information for the noncustodial parent, attorneys would impute income, assuming that the nonresident parent worked full time at minimum wage, even though 2/3 of minimum wage workers work less than 35 hours a week (Acs 1999). This presumed a monthly income of about \$1160 and a monthly payment of \$232. Even parents who testified that they were currently unemployed were given this imputed order.

This monthly sum of \$232 doesn't include the cost of medical support—a sum additional to child support for those parents who do not provide health insurance for their children. When children receive Medicaid, medical support is kept by the state rather than passed on to the custodial parent. Medical support orders that I saw were relatively small each month, ranging from about \$25-100. Yet, they add to the monthly obligation.

Texas also allows for retroactive orders dating back up to four years (Texas Family Code §154.131c). This, too, was a practice that I observed in establishment cases in Masters County. Here is an example. In this quote, the state Assistant Attorney General is negotiating with two older white parents about their child support order. They

have conducted a paternity test and conclude that the man is indeed the biological father of the child. After determining that he is the father, the AG sets a child support order.

AG: The results are positive - you are the biological father. We are here to set child support and retroactive child support. ...

Dad: I haven't known [that this was my child] this whole time ... I've never known this child, I've seen him seven times [in his whole life], and now you're telling me to pay back child support [child support debt].

AG: Back child support is based on what you should have paid versus what you did pay... Minimum wage is \$1250/month. Child support is set at 20% of net income, meaning \$240/mo. in current child support. Back child support is \$10,752. Do you agree to a judgement of \$10,752?

[Dad laughs incredulously.]

AG: You don't have to agree... On top of the \$240, we want \$66/month for the medical... This [debt] is back child support for 48 months x \$240/month, [we are asking you to repay this at] \$100/month.

This man was found to be the biological father of his child and in the course of about ten minutes acquired more than \$10,000 in debt. In the course of my field work, I saw this happen a lot. Often these debts were decided in court by the AG, the judge, and the mom, without the dad even being present. Like this man, they very quickly accumulated huge debt. In Chapter One, I found that owing more than \$10,000 in debt significantly increased the risk of going to jail for child support nonpayment. Here we can see how easy it is for a nonresident parent to pass the \$10,000 debt threshold.

Another finding of this dissertation is the prevalence of family complexity, specifically multi-partner fertility, among parents who go to jail for child support debt. In the FFCW sample, 72% of fathers owing child support—and 82% of fathers who end up in jail for child support—have children by more than one mother. This prevalence was similar among the parents I observed in court. For some parents, not only did they have

multiple children, but they also had multiple child support orders. This, too, has a serious impact on their ability to pay child support. A parent owing child support to three children in three different households will owe a much larger sum than if the three children were only in one household (Meyer, Cancian & Cook 2005).

Most of the noncustodial parents in this dissertation are in very dire economic straits. Many have inconsistent work in seasonal, temporary, or low-wage jobs that do not provide benefits or stability. These parents also faced considerable insecurity in the romantic and residential parts of their lives. Many didn't have homes of their own and instead stayed with parents, siblings, or romantic partners. Some experienced bouts of homelessness. Despite the insecurity that categorized their work and home lives, their monthly child support obligations were stable, consistent, and rarely modified. For parents who couldn't predict how much they would make next week—let alone next month—these stable obligations become very difficult to meet.

For parents unable to meet their obligation, debt grows quickly. In Texas, interest on unpaid child support is assessed at the rate of 6% simple interest per month (Texas Family Code §157.265b). The average debt load of parents that I observed in court was about \$18,000, but I regularly saw cases of individuals owing \$30,000, \$45,000, or even \$100,000 in combined child support and medical debt.

Wage withholding in Texas is capped at 50% of income. In a few of the cases that I observed, nonresident parents were ordered to make payments *in addition to* their wage garnishment, because their monthly orders (including payment on debt) amounted to



more than 50% of their monthly income. In the following case, Eric, a Black noncustodial father, is incarcerated by Judge Salinas, because he is unable to pay more than the 50% of income currently deducted from his wages:

Eric: I'm paying [my child support] every week. It comes out of my check every week....The fact that not enough is being deducted from my paycheck should not land me in jail. I have another family I'm paying for too. I don't make enough to meet my court obligation....

Judge: I want you to have clarity that you are the only person responsible to pay [your child support debt] according to the prior order ....It's important for everyone to take responsibility for their own actions. It's not the state's fault that they're not deducting enough. The state will follow the law, they know they have a maximum under law regarding how much they can take.

Eric: Even if it's more than my paycheck?

Judge: ... Regardless of the number of families and child support orders, you still owe money pursuant to the court order, you have to pay on your own from whatever money is left in the paycheck even after garnishment. It may require a 2nd or 3rd job to meet the requirements. When you have more than one family, you have that personal obligation.

Even though Eric's child support was deducted from his wages, he was still incarcerated because this garnishment was less than the monthly child support he was ordered to pay. By incarcerating him, Eric will likely lose the job that he has and be unable to pay *any* of his child support.

Overall, the problems with the child support system can be classified into three broad categories: problems with establishment and order size, dysfunction in enforcement, and finally how to balance the needs and contributions of noncustodial fathers, custodial mothers, and the children they share. For many of the parents that I encountered throughout this project, their child support orders did not reflect their ability to pay, whether because their earnings were inconsistent, because their earnings were

imputed, because they had multiple families, or because debt service and interest payments added to their monthly orders. These orders are unrealistic and do not reflect a parent's ability to pay.

The second class of problems concerns the enforcement process. As noted in Chapter Two, there is a great deal of judicial discretion in the enforcement process, leading to like cases being treated differently. There are no set indigency guidelines for child support enforcement court, so decisions about who should be appointed counsel are not made systematically. At the very least, child support judges should use the pre-existing criminal indigency guidelines to determine who qualifies for legal aid. Some recent legal scholarship has focused on the ability of parents in child support hearings to be treated justly if they are appearing *pro se*, without a lawyer (Curry 2012; Engler 2009). Many of the respondents that I observed and spoke with were hopelessly confused about the enforcement process. Interviewees told me that they found the paperwork hard to read, had trouble with some of the words the judges and prosecutors used, and even signed documents that they didn't understand. Legal counsel would go a long way towards helping parents navigate the system. Providing some benchmarks—e.g., nobody goes to jail the first time they appear in court on an enforcement order—would also help even out the enforcement process. Finally, it seems from the comparison between Masters and Riley County that separating out cases into enforcement and establishment dockets might be making it harder for judges to empathize with the parents in their courts.

The final problem is more complicated. Many of the noncustodial fathers that I observed and interviewed were extremely poor and unable to afford to pay their child support orders. At the same time, the custodial mothers that I observed were poor and struggling to make ends meet as well. When both parents are low-income and the only existing policy lever involves a transfer of income from one low-income parent to another low-income parent, the capacity of this policy to improve child wellbeing is constrained by definition. Truly reducing child poverty and ensuring the economic wellbeing of parents and children will require a significant public investment and cannot be accomplished through existing child support enforcement law when nonresident parents are poor.

### **Conclusion**

In the introduction, I pointed to two categories of goals that the child support system aims to meet. The first category is fiscal and economic goals. In the introduction, I demonstrated that the system doesn't meet its fiscal goal of welfare cost recovery. I also estimated the substantial cost that jail as a child support enforcement tactic adds. Rather than being an economically rational method for recovering child support debt, jailing low-income parents instead seems to be an ineffective method for collecting child support. What of the goal of parental responsibility?

In other work, Christine Williams and I (2017) have found that child support reproduces gender inequality through holding custodial mothers overwhelmingly responsible for the economic support and care of children. Aside from a small monthly

support payment of a few hundred dollars, custodial mothers are responsible for meeting all of the economic needs that child support funds don't cover. Unlike child support payments, which can be left unpaid, retaining custody of children requires that custodial parents meet the needs of children by any means necessary. Indeed, the resident mothers that I interviewed in Chapter Four understood that children are *their* responsibilities. As Taryn said, "that's my baby. That's my child. Mama's baby, daddy's maybe."

Indeed, the social goal of having nonresident fathers contribute to their children is crucial for reducing the burden on custodial mothers. I hope it is clear from this dissertation that I do not disagree with this goal, I only disagree with enforcing this goal via *incarceration*. Other methods of child support enforcement can be quite effective. Indeed, routine child support enforcement tactics such as wage withholding and tax refund intercept have been enormously effective in collecting child support, together accounting for almost 2/3 of collections (see Figure 8). It's true, however, that these tactics are less effective for low-income fathers. What kind of changes can we make to child support policy so that it can more justly and effectively ensure that children are supported by their nonresident parents?

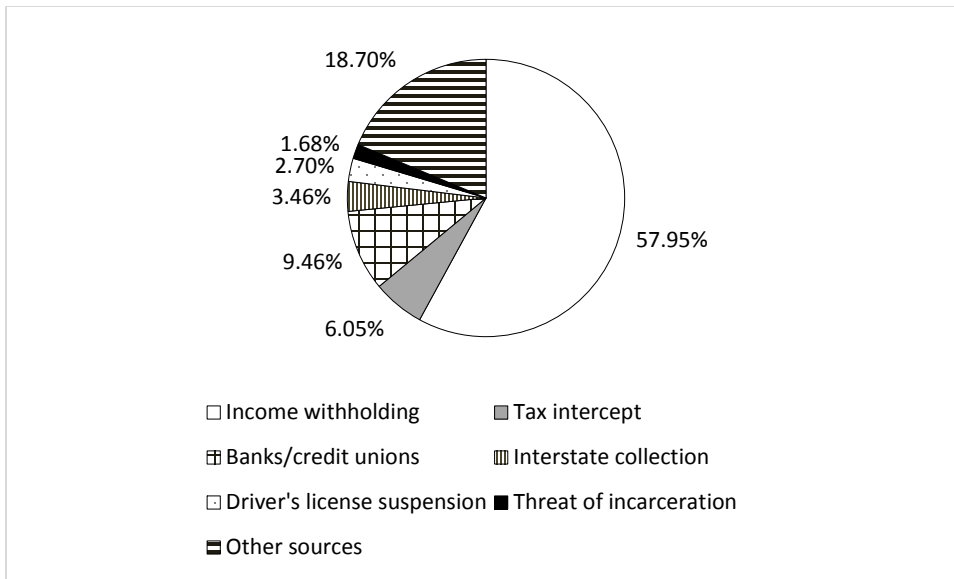


Figure 8. Sources of child support collections.

Source: Solomon-Fears, Smith, & Berry 2012.

**Changes to debt policies.** Child support debt outpaces collections by more than 400% (see Figure 9). On an individual level, debt loads are often higher than annual income. It's likely that most of this debt will never be collected. Using incarceration as a debt collection strategy adds to this cost without much financial return. Indeed, holding onto uncollectible debts makes the child support system look ineffective. Therefore, child support policymakers should consider debt forgiveness policies. Linking this debt forgiveness to job search programs, co-parenting classes, or time with children could incentivize nonresident fathers into socially productive activities. These programs can help fathers better contribute time, care, and money for their children and lessen the unequal burden on custodial mothers.

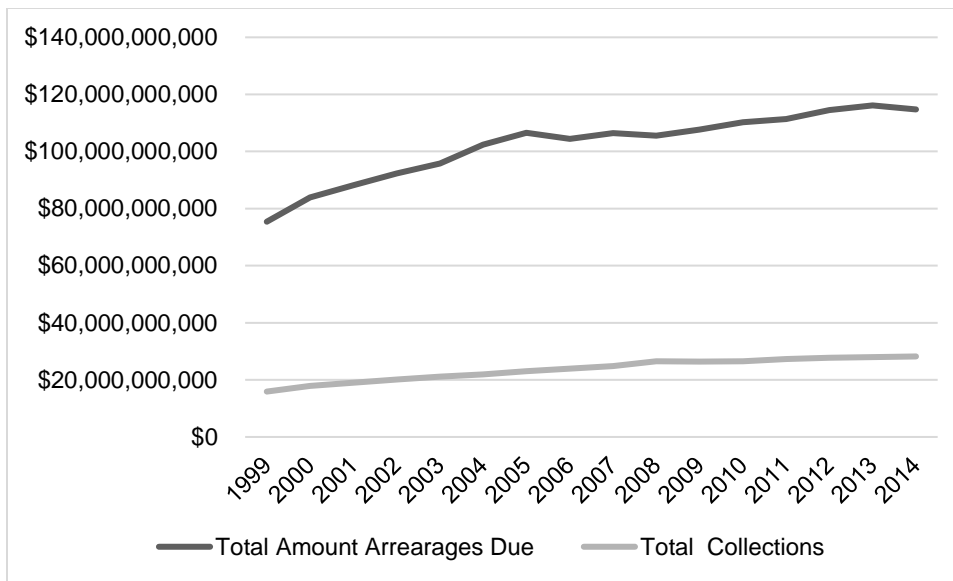


Figure 9. Child support arrears and collections over time.

Source: OCSE.

**Right size orders.** In this dissertation, I have demonstrated that many of the child support obligations that nonresident parents have do not in any way reflect their actual ability to pay. Several policy changes could help lawmakers ensure that child support obligations are feasible. First, retroactive support should be eliminated. Starting a nonresident parent's child support order in the red is an unfair and unsustainable policy. Second, default orders should not employ the full time minimum wage presumption. Very few minimum wage workers work full time (Acs 1999). Orders for minimum wage workers should reflect minimum wage hours. For unemployed parents, Texas should follow states like Wisconsin (35.93 Wisconsin Stats., Chapter DCF 150, Appendix C) in adopting different child support guidelines for unemployed and low-income individuals. Because of the high levels of instability in work and home lives among the child support

court population, reviews of child support orders should occur regularly. Every time a parent begins a new job, their child support order should carry over as a flat percentage of their paycheck, rather than a dollar amount. Finally, lawmakers should reconsider how child support orders across multiple households are allocated. Multi-partner fertility is extremely prevalent and likely not going to decline anytime soon. Pilot programs should experiment with different ways to deal with child support obligations across multiple households to try and determine the optimal solution.

**Deemphasize incarceration.** In this dissertation, I have demonstrated that incarcerating nonresident parents for child support debt is fiscally irrational, unevenly enforced, counterproductive, and even harmful. Given the multiple problems with ensuring due process in judicial child support enforcement actions, lawmakers should reconsider their use of this tactic, particularly for low-income parents. I support recent calls to decrease reliance on this enforcement mechanism (Solomon-Fears, Smith, & Berry 2012). At the very least, protections should be put into place to ensure fair and equal treatment in access to court-appointed attorneys, pre-trial release, and sentencing.

In this dissertation, I have explored the understudied phenomenon of jailing for child support nonpayment through assessing its fiscal basis, distribution, process, and meaning. It is my sincere hope that these policy suggestions reach their intended audience. The judicial child support enforcement system as it stands today is deeply dysfunctional and has negative consequences for both parents and children. The policy

suggestions that I have outlined above will go a long way towards making the system more rational, effective, and just.



## Appendices

	National weight is missing	National weight is not missing		Weighted mean (SD)	
Nonresident dad	0.6173437	0.4500681	***	0.3091891	0.4621855
Formal child support order	0.292374	0.2403338	***	0.1519806	0.3590232
Child support debt	0.1682193	0.1322943	***	0.0763119	0.2655125
Jail for child support nonpayment	0.0200538	0.0189533	**	0.0109646	0.1041426
Amount of child support debt (Categorical)	4.669632	4.443712	***	4.96224	2.407374
Public Assistance History					
Mom has ever received TANF	0.5484179	0.4147239	***	0.2599809	0.4386504
Mom has received Medicaid by wave 3	0.6362576	0.5361378	***	0.4410851	0.4965543
Relational Variables					
Relationship quality	2.735861	3.288218	***	3.580688	1.377883
Either parent is in a new relationship	0.3070164	0.2290059	***	0.1561115	0.3629816
Mom has MPF	0.4674507	0.3824751	***	0.2732879	0.4456736
Dad has MPF	0.555784	0.4660775	***	0.3972198	0.4893568
Controls					
Dad worked last week	0.6313842	0.8075666	***	0.8612604	0.3456943
Relationship at Baseline (Categorical)	0.8249904	1.094654	***	1.043068	0.6155907
Dad in jail at baseline	0.0442795	0.0344168	***	0.0187763	0.135742
Any domestic violence	0.105599	0.0843517	***	0.0579	0.2335737
Dad's education (Categorical)	2.244365	2.326714	***	2.543217	1.075187
Dad age at baseline	31.9573	32.24379	***	34.47847	7.612583
Dad's household income	36901.86	49233.59	***	59135.83	67458.02
Dad is White	0.1179167	0.2501135	***	0.3855571	0.4867543
Dad is Black	0.5754489	0.4394008	***	0.2604303	0.4388943
Dad is Hispanic	0.2610467	0.2664548	***	0.2980685	0.4574357
Dad is other race	0.0368012	0.0426691	***	0.055198	0.2283793
State of residence (Categorical)	32.08798	33.61619	***	36.47641	14.50208
N (person-waves)	9,708	6,957		6,957	

Appendix 1. Differences between FFCW respondents with and without national probability weights

	Formal Order	Debt	Jail	Jail with Amount Debt
Wave	1.109*** (0.009)	1.082*** (0.013)	1.108*** (0.027)	1.071** (0.026)
Public Assistance History				
Mom has ever received TANF	1.112+ (0.070)	1.497*** (0.127)	0.908 (0.147)	0.902 (0.145)
Mom has received Medicaid by wave 3	1.037 (0.061)	1.127 (0.092)	1.142 (0.180)	1.158 (0.182)
Relationship Factors				
Relationship quality	0.956* (0.019)	0.771*** (0.023)	1.027 (0.057)	1.052 (0.059)
Either parent has ever been in a new relationship	1.199*** (0.062)	1.289*** (0.094)	0.874 (0.112)	0.869 (0.112)
Mom has MPF	1.030 (0.065)	1.013 (0.084)	1.001 (0.154)	1.004 (0.156)
Dad has MPF	2.205*** (0.142)	1.139 (0.100)	1.890*** (0.353)	1.861*** (0.351)
Arrears Amount (Ref: Between \$1 and \$499)				
\$500 to \$1,000				1.215 (0.424)
\$1,001 to \$2,000				1.139 (0.395)
\$2,001 to \$3,000				1.081 (0.381)
\$3,001 to \$4,000				1.093 (0.455)
\$4,001 to \$5,000				1.331 (0.520)
\$5,001 to \$10,000				1.415 (0.475)
More than \$10,000				2.363** (0.779)
Constant	0.320*** (0.059)	2.727*** (0.695)	0.108*** (0.045)	0.086*** (0.043)
Observations	8,309	8,309	8,309	8,309

Appendix 2. Selected Results from Seemingly Unrelated Regressions.

	Formal Order	Debt	Jail	Jail with Amount Debt
Wave	1.115*** (0.009)	1.011 (0.049)	1.074 (0.051)	1.024 (0.050)
Public Assistance History				
Mom has ever received TANF	1.163* (0.077)	1.370** (0.153)	0.776 (0.220)	0.751 (0.211)
Mom has received Medicaid by wave 3	1.030 (0.069)	1.164 (0.110)	1.394 (0.306)	1.384 (0.307)
Relationship Factors				
Relationship quality	0.950* (0.021)	0.791*** (0.030)	1.196 (0.197)	1.271 (0.211)
Either parent has ever been in a new relationship	1.181** (0.063)	1.154 (0.120)	0.794 (0.141)	0.772 (0.138)
Mom has MPF	0.983 (0.064)	1.003 (0.085)	1.043 (0.162)	1.047 (0.166)
Dad has MPF	2.188*** (0.147)	0.644 (0.229)	1.659** (0.321)	1.620* (0.318)
Arrears Amount (Ref: Between \$1 and \$499)				
\$500 to \$1,000				1.513 (0.740)
\$1,001 to \$2,000				1.479 (0.702)
\$2,001 to \$3,000				1.507 (0.761)
\$3,001 to \$4,000				1.587 (0.888)
\$4,001 to \$5,000				1.593 (0.846)
\$5,001 to \$10,000				2.158 (1.019)
More than \$10,000				3.683** (1.738)
Constant	0.129*** (0.032)	1.196 (0.412)	0.004** (0.007)	0.002** (0.004)
Observations	8,309	3,905	2,114	2,114

Appendix 3. Selected Results from City Fixed Effects Models.

State	City	Debtors without jail	Jail	Total	Percent jailed
CA	Oakland	77	4	81	4.94%
CA	San Jose	97	5	102	4.90%
	<i>CA Total</i>	174	9	183	4.92%
FL	Jacksonville	56	11	67	16.42%
IL	Chicago	32	1	33	3.03%
IN	Indianapolis	114	31	145	21.38%
MA	Boston	32	4	36	11.11%
MD	Baltimore	183	17	200	8.50%
MI	Detroit	192	25	217	11.52%
NJ	Newark	129	24	153	15.69%
NY	New York City	70	0	70	0.00%
OH	Toledo	71	18	89	20.22%
PA	Philadelphia	129	16	145	11.03%
PA	Pittsburgh	57	25	82	30.49%
	<i>PA Total</i>	186	41	227	18.06%
TN	Nashville	62	16	78	20.51%
TX	Austin	97	26	123	21.14%
TX	Corpus Christi	172	26	198	13.13%
TX	San Antonio	51	6	57	10.53%
	<i>TX Total</i>	320	58	378	15.34%
VA	Norfolk	55	14	69	20.29%
VA	Richmond	216	50	266	18.80%
	<i>VA total</i>	271	64	335	19.10%
WI	Milwaukee	248	40	288	13.89%
	<i>Total</i>	1,626	268	1,894	14.15%

Appendix 4. Percent incarcerated for child support by city at baseline (aggregated by state).

	Formal	Informal		Debt	No Debt		Jail Sample	No Jail	
Public Assistance History									
Mom has ever received TANF	64.11%	41.40%	***	69.27%	43.30%	***	69.93%	46.48%	***
Mom has received Medicaid by wave 3	73.04%	53.35%	***	76.84%	54.82%	***	85.53%	56.97%	***
Relational Variables									
Relationship quality	2.05	3.44	***	1.75	3.32	***	1.70	3.11	***
Either parent is in a new relationship	55.09%	16.22%	***	59.81%	20.17%	***	59.21%	25.21%	***
Mom has MPF	57.97%	36.02%	***	59.71%	38.19%	***	63.61%	40.75%	***
Dad has MPF	71.88%	44.79%	***	72.60%	48.14%	***	81.88%	51.42%	***
Controls									
Dad worked last week	62.82%	75.51%	***	53.69%	75.10%	***	50.83%	72.37%	***
Relationship at Baseline (Categorical)	70.59%	105.88%	***	68.50%	101.66%	***	61.84%	97.73%	***
Dad in jail at baseline	5.76%	3.08%	***	6.46%	3.25%	***	4.44%	3.68%	
Any domestic violence	16.26%	6.55%	***	19.85%	7.14%	***	18.71%	8.54%	***
Dad's education (Categorical)	1.93	2.17	***	1.87	2.15	***	1.78	2.12	***
Dad age at baseline	26.43	28.31	***	25.88	28.17	***	27.92	25.50	***
Dad's household income	\$ 35,842.95	\$ 51,814.65	***	\$ 32,321.37	\$ 50,634.89	***	\$ 28,443.12	\$ 48,827.08	***
Dad is White	10.99%	21.75%	***	6.55%	20.46%	***	12.17%	19.32%	**
Dad is Black	65.41%	44.64%	***	66.13%	46.98%	***	67.76%	49.23%	***
Dad is Hispanic	28.97%	19.86%	***	19.12%	28.02%	***	15.46%	27.04%	***
Dad is other race	3.24%	4.14%	+	3.22%	4.04%	+	4.61%	3.90%	
<i>N</i>	4,284	11,883		2,359	13,432		304	15,304	

Appendix 5. Results from two-tailed t-tests comparing subsamples to full FFCW.

	Odds Ratio (Standard Error)		
	Model 1	Model 2	Model 3
Wave	0.912 (0.069)	1.080 (0.059)	1.027 (0.053)
Public Assistance History			
Mom has ever received TANF	1.167 (0.142)		1.384** (0.147)
Mom has received Medicaid by wave 3	1.103 (0.111)		1.172+ (0.113)
Relational Variables			
Relationship quality		0.766*** (0.024)	0.786*** (0.031)
Either parent has ever been in a new relationship		1.260+ (0.175)	1.163 (0.128)
Mom has MPF		1.094 (0.094)	1.021 (0.088)
Dad has MPF		1.096 (0.475)	0.731 (0.273)
Controls			
Dad worked last week	0.190*** (0.079)	0.598*** (0.050)	0.425* (0.155)
Relationship at Baseline (Ref: Not Romantic)			
Married	1.376 (0.400)	0.724+ (0.135)	0.866 (0.170)
Cohabiting	1.165 (0.147)	0.984 (0.092)	1.039 (0.105)
Any domestic violence (Kick, slap, serious injury)	1.375+ (0.245)	1.451* (0.221)	1.326+ (0.193)
Dad in jail at baseline	0.981 (0.186)	1.207 (0.238)	1.130 (0.207)
Dad's household income	1.000 0.000	1.000 0.000	1.000 0.000
Dad's education at baseline (Ref: LTHS)			
High school degree	0.645*** (0.084)	0.766+ (0.110)	0.739* (0.089)
Some college/ Trade school	0.564* (0.131)	0.864 (0.220)	0.793 (0.153)
College degree	0.945 (0.163)	0.653* (0.118)	0.746+ (0.123)
Dad age at baseline	0.981* (0.007)	0.991 (0.007)	0.994 (0.007)
Dad's race (Ref: White)			
Dad is Black	0.845 (0.121)	0.942 (0.148)	0.896 (0.140)
Dad is Hispanic	1.021 (0.183)	0.899 (0.171)	0.941 (0.182)
Dad is other race	0.862 (0.230)	0.988 (0.264)	0.948 (0.252)
Constant	0.294+ (0)	3.052 (2.470)	1.292 (0.738)
Observations	3,849	3,849	3,849

Appendix 7. Full regression table predicting debt

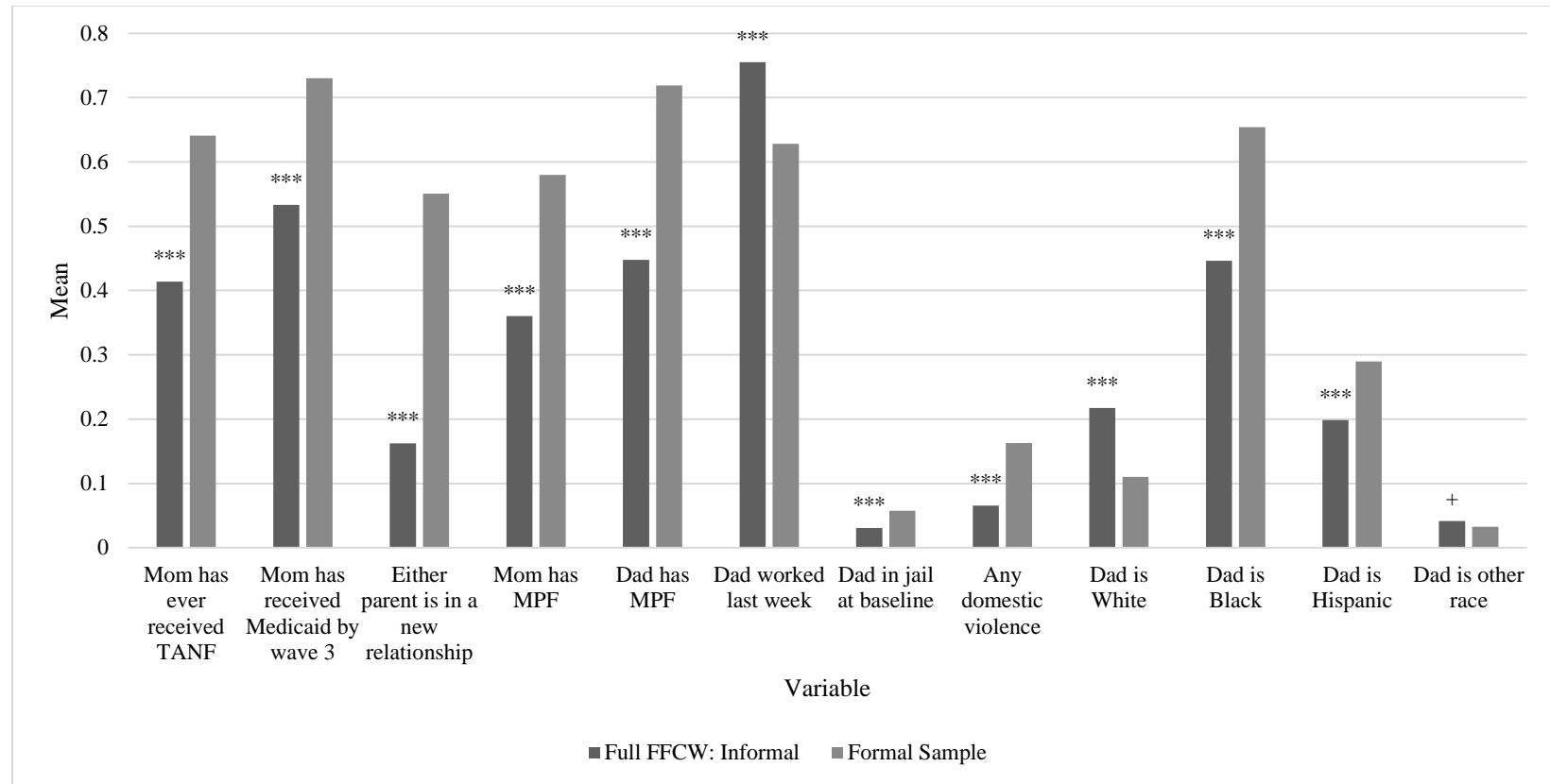
		Odds Ratio (Standard Error)			
		Model 1	Model 2	Model 3	Model 4
Wave		1.087+ (0.055)	1.038 (0.057)	1.051 (0.050)	1.003 (0.050)
Public Assistance History					
	Mom has ever received TANF	0.932 (0.232)		0.758 (0.206)	0.733 (0.198)
3	Mom has received Medicaid by wave	1.406 (0.300)		1.312 (0.282)	1.305 (0.285)
	Amount of CS Debt (Ref: Between \$1 and \$499)				
	\$500 to \$1,000				1.462 (0.734)
	\$1,001 to \$2,000				1.677 (0.808)
	\$2,001 to \$3,000				1.536 (0.787)
	\$3,001 to \$4,000				1.600 (0.906)
	\$4,001 to \$5,000				1.728 (0.931)
	\$5,001 to \$10,000				2.256+ (1.084)
	More than \$10,000				3.849** (1.838)
Relationship Factors					
	Relationship quality		1.329 (0.267)	1.278 (0.211)	1.356+ (0.226)
	Either parent has ever been in a new relationship		0.758 (0.131)	0.759 (0.132)	0.741+ (0.129)
	Mom has MPF		0.991 (0.166)	1.035 (0.165)	1.045 (0.169)
	Dad has MPF		1.650* (0.325)	1.658** (0.319)	1.619* (0.315)

#### Appendix 8. Full regression table predicting jail

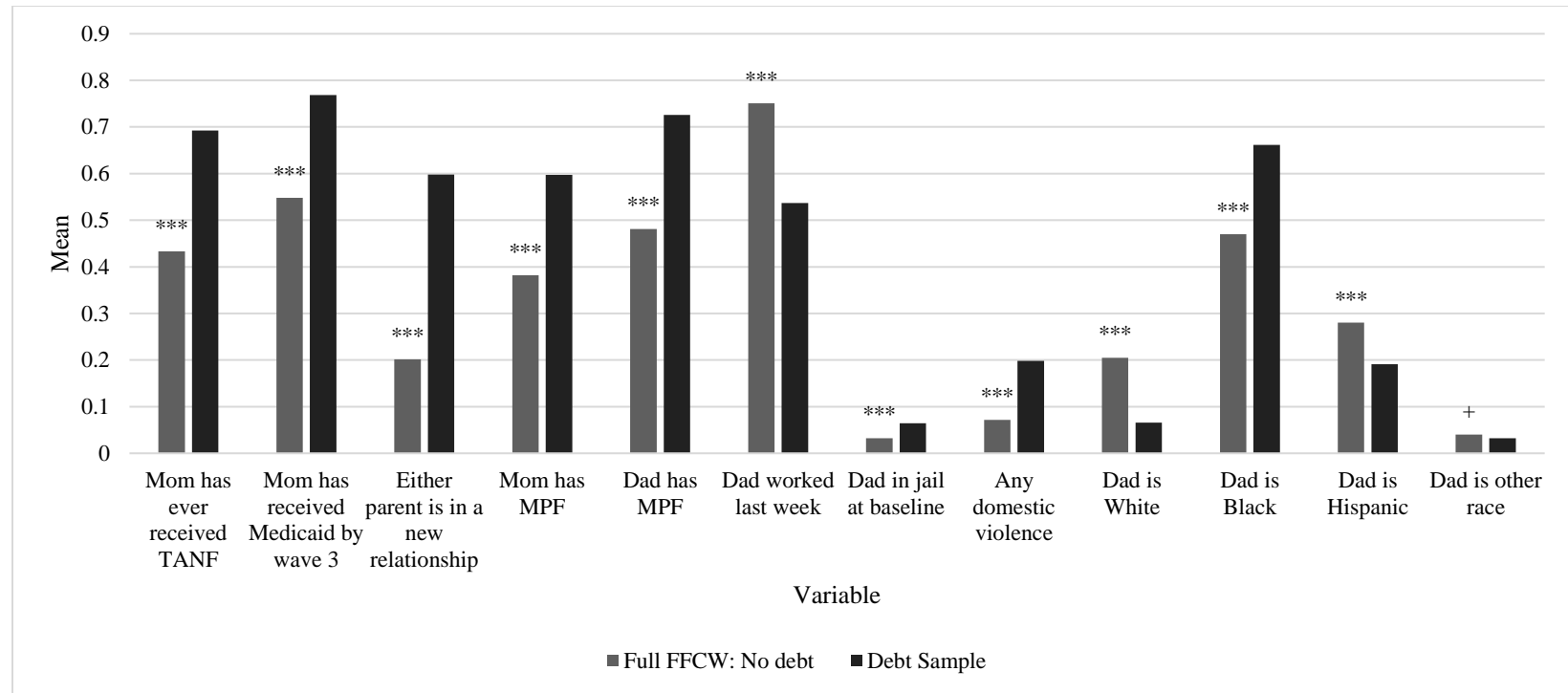
(continued on next page)

	Odds Ratio (Standard Error)			
	Model 1	Model 2	Model 3	Model 4
Controls				
Dad worked last week	1.249 (0.399)	1.073 (0.158)	1.539 (0.482)	1.733+ (0.549)
Relationship at Baseline (Ref: Not Romantic)				
Married	0.703 (0.274)	0.898 (0.386)	0.858 (0.338)	0.806 (0.321)
Cohabiting	0.918 (0.145)	0.929 (0.147)	0.906 (0.142)	0.871 (0.139)
Any domestic violence (Kick, slap, serious injury)	0.898 (0.295)	0.877 (0.243)	0.875 (0.233)	0.888 (0.240)
Dad in jail at baseline	0.581 (0.211)	0.475+ (0.197)	0.523+ (0.193)	0.499+ (0.185)
Dad's household income	1.000 0.000	1.000 0.000	1.000 0.000	1.000 0.000
Dad's education at baseline (Ref: LTHS)				
High school degree	0.641* (0.129)	0.758 (0.196)	0.722 (0.159)	0.745 (0.166)
Some college/ Trade school	0.857 (0.187)	0.940 (0.239)	0.897 (0.202)	0.862 (0.194)
College degree	1.493 (0.416)	1.887+ (0.684)	1.805+ (0.579)	1.920* (0.629)
Dad age at baseline	0.999 (0.013)	0.994 (0.015)	0.994 (0.014)	0.994 (0.014)
Dad's race (Ref: White)				
Dad is Black	1.142 (0.293)	1.078 (0.257)	1.135 (0.289)	1.168 (0.304)
Dad is Hispanic	0.860 (0.270)	0.902 (0.291)	0.897 (0.292)	0.903 (0.291)
Dad is other race	1.878 (0.758)	1.806 (0.729)	1.860 (0.767)	1.980+ (0.816)
Constant	0.054* (0.076)	0.010* (0.021)	0.008* (0.016)	0.004** (0.008)
Observations	2,046	2,046	2,046	2,046

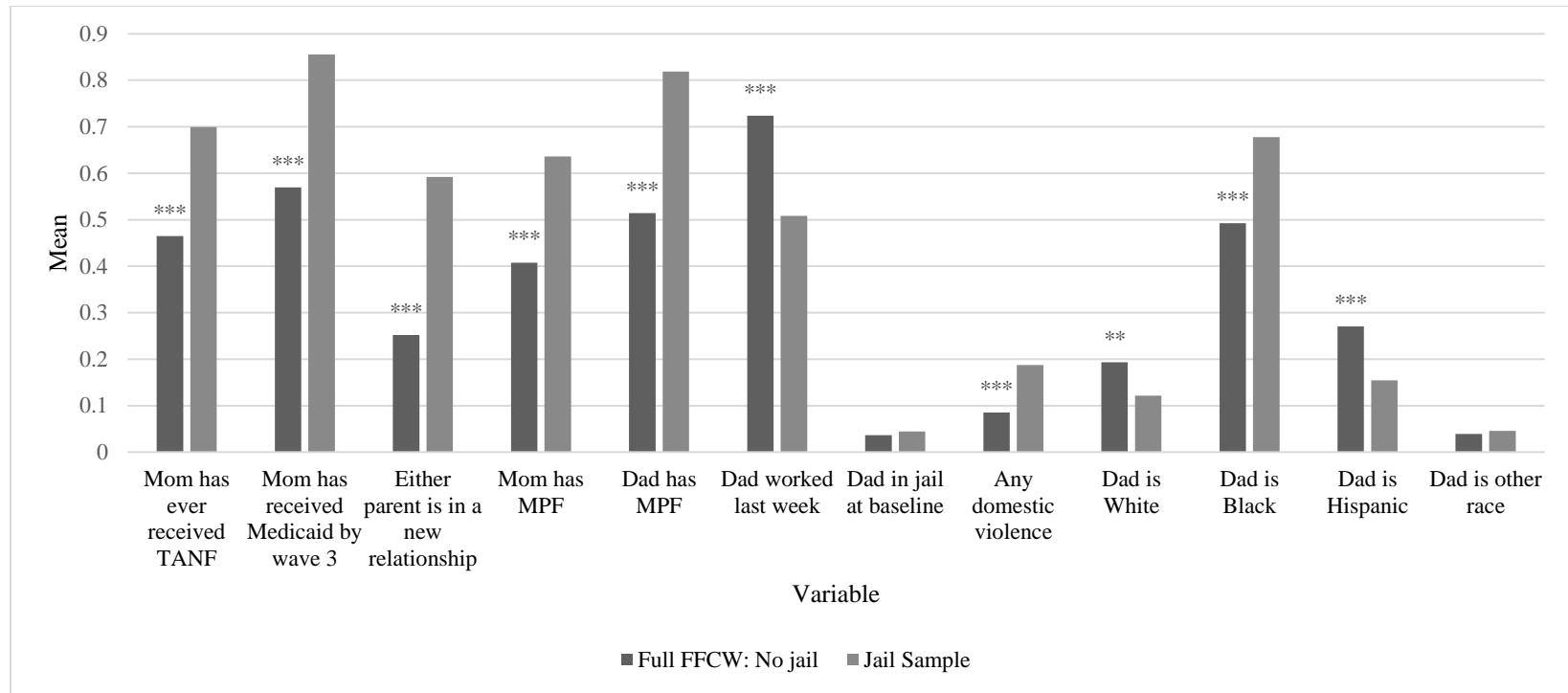




Appendix Figure 1. Results of Selected (Two-Tailed) T-test Differences between Formal Subsample and Informal Population in Full FFCW.



Appendix Figure 2. Results of Selected (Two-Tailed) T-test Differences between Debt Subsample and Non-Debt Population in Full FFCW.



Appendix Figure 5. Results of Selected (Two-Tailed) T-test Differences between Jail Subsample and Non-Jail Population in Full FFCW.

## Bibliography

- Acs, Gregory. 1999. "A Profile of Low-Wage Workers." *United States Department of Labor*.
- Adams, Michelle A. 2006. "Framing Contests in Child Custody Disputes: Parental Alienation Syndrome, Child Abuse, Gender, and Fathers' Rights." *Family Law Quarterly* 40(2):315-338.
- Albonetti, Celesta A. 1991. "An integration of theories to explain judicial discretion." *Social Problems* 38(2): 247-266.
- Alexander, M. Jacqui. 2005. *Pedagogies of Crossing: Mediations on feminism, sexual politics, memory, and the sacred*. Durham, NC: Duke University Press.
- Alexander, Michelle. 2010. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press.
- Allison, Paul. 2009. "Missing data." In R. E. Millsap & A. Maydeu-Olivares (Eds.), *The SAGE handbook of quantitative methods in psychology* (pp. 72–89). Thousand Oaks, CA: Sage Publications.
- Associated Press [AP]. 2017. "Houston inmates who couldn't afford bail to be released after court rules system unfair." *Washington Times*, June 7. Available at: <http://www.washingtontimes.com/news/2017/jun/7/houston-inmates-released-after-court-rules-bail-sy/>

- Bartfeld, Judi and Daniel R. Meyer. 2003. "Child Support Compliance among Discretionary and Nondiscretionary Obligor." *Social Service Review* 77(3): 347-372.
- Bartfeld, Judi. 2003. "Forgiveness of state-owed child support arrears." Institute for Research on Policy Special Report no. 84. Available at:  
<https://www.irp.wisc.edu/publications/sr/pdfs/sr84.pdf>
- Beckett, Katherine and Bruce Western. 2001. "Governing social marginality: Welfare, incarceration, and the transformation of state policy." *Punishment & Society* 3(1): 43-59.
- Beckett, Katherine and Naomi Murakawa. 2012. "Mapping the Shadow Carceral State: Toward an Institutionally Capacious Approach to Punishment." *Theoretical Criminology* 16, 2: 221-44.
- Bernard, Jessie. 1981. "The good provider role: Its rise and fall." *American Psychologist* 36(1): 1-12.
- Bogensneider Karen. 2000. "Has Family Policy Come of Age? A Decade Review of the State of US Family Policy in the 1990s." *Journal of Marriage and the Family* 62:1136-1159.
- Boynton-Jarrett, Renee, Jessica Fagnoli, Shakira Franco Suglia, Barry Zuckerman, and Rosalind J. Wright. 2010. "Association between maternal intimate partner violence and incident obesity in preschool-aged children." *Archives of Pediatrics and Adolescent Medicine* 164(6): 540-546.

- Brito, Tonya L. 1999. "From Madonna to the Proletariat: Constructing a New Ideology of Motherhood in Welfare Discourse." *Villanova Law Review* 44(3):415-444.
- Brito, Tonya L., David J. Pate, Jr., and Jia-Hui Stefanie Wong. 2015. "'I do for my kids': Negotiating race and racial identity in family court." *Fordham Law Review* 83: 3027-3052.
- Bzostek, Sharon H., Sara S. McLanahan, and Marcia J. Carlson. 2012. "Mothers' Repartnering after a Nonmarital Birth." *Social Forces* 90(3): 817-841.
- Cahn, Naomi R. 1999. "Models of Family Privacy." *George Washington Law Review* 67(5/6): 1225-1246.
- Carlson, Marcia J. and Frank F. Furstenberg Jr. 2006. "The prevalence and correlates of multipartnered fertility among urban U.S. Parents." *Journal of Marriage and Family* 68(3): 718-732.
- Case, A., Lin I., & McLanahan, S. 2003. "Explaining trends in child support: Economic, demographic, and policy effects." *Demography* 40(1): 171-189.
- Chambers, David L. 1979. *Making fathers pay: The enforcement of child support*. Chicago: University of Chicago Press.
- Clark, K., Esch, C., & Delvac, G. 2016. *The Uncertain Hour: Welfare Reform, 20 Years Later*. Marketplace, Minnesota Public Radio. Available at: <https://www.marketplace.org/topics/uncertain-hour>
- Collins, Jane L., & Victoria Mayer. 2010. *Both hands tied: Welfare reform and the race to the bottom in the low-wage labor market*. University of Chicago Press.

- Collins, Patricia Hill. 1990. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*. New York: Routledge.
- Coltrane, Scott and Neal Hickman. 1992. "The Rhetoric of Rights and Needs: Moral Discourse in the Reform of Child Custody and Child Support Laws." *Social Problems* 39 (4):400-420.
- Comfort, Megan. 2008. *Doing Time Together*. Chicago, IL: University of Chicago Press.
- Comfort, Megan. 2015. "'A twenty-hour-a-day job': The impact of frequent low-level criminal justice involvement on family life." *The ANNALS of the American Academy of Political and Social Science* 665: 63-79.
- Committee on Ways and Means, U.S. House of Representatives. 2008. *2008 green book: Section 8 – Child Support Enforcement Program*. Washington, DC.
- Cook, Steven & Jennifer L. Noyes .2011. "The Use of Civil Contempt and Criminal Nonsupport as Child Support Enforcement Tools: A Report on Local Perspectives and the Availability of Data," *Institute for Research on Poverty*.
- Cook, Steven. 2015. "Child support enforcement use of contempt and criminal nonsupport charges in Wisconsin." *Institute for Research on Poverty*
- Coven, Mark S. 1997. "Welfare reform, contempt and child support enforcement." *Suffolk University Law Review* 30: 1067-1095.
- Cozzolino, Elizabeth and Christine L. Williams. 2017. "Child Support Queens and Disappointing Dads: Gender and Child Support Compliance." *Social Currents* 4(3): 228-245.

- Cozzolino, Elizabeth. 2018. "Public Assistance, Relationship Context, and Jail for Child Support Debt." *Socius: Sociological Research for a Dynamic World* 4: 1-25.
- Craigie, Terry-Ann L. 2015. "Multipartner Fertility and Child Support." *Eastern Economic Journal* 41: 571-591.
- Curry, Daniel. 2012. "The march towards justice: Assessing the impact of *Turner v. Rogers* on civil access-to-justice reforms." *Georgetown Journal of Legal Ethics* 25: 487-501.
- Demuth, Stephen and Darrell Steffensmeier. 2004. "The impact of gender and race-ethnicity in the pretrial release process." *Social Problems* 51(2): 222-242.
- Demuth, Stephen. 2003. "Racial and ethnic differences in pretrial release decisions and outcomes: A comparison of Hispanic, Black, and White felony arrestees." *Criminology* 41(3): 873-908.
- Edin, Kathryn and Timothy J. Nelson. 2013. *Doing the Best I Can: Fatherhood in the Inner City*. Berkeley, University of California Press.
- Edin, Kathryn. 2000. "What do low-income single mothers say about marriage?" *Social Problems* 47(1): 112-133.
- Elizabeth, Vivienne, Nicola Gavey, and Julia Tolmie. 2012. "...He's Just Swapped His Fists For the System' The Governance of Gender through Custody Law." *Gender & Society* 26 (2):239-260.
- Elmore, Cindy. 2010. "On and On, Over and Over: The Gender War in Child Support Enforcement Court." *Feminist Studies* 36(2): 397-403.



- Elrod, Linda Henry. 1990. "The federalization of child support guidelines." *Journal of the American Academy of Matrimonial Lawyers* 6: 103-130.
- Emerson, Robert M. Rachel I. Fretz and Linda L. Shaw. 1995. "Processing Fieldnotes: Coding and Memoing." Pp. 142- 168 in *Writing Ethnographic Fieldnotes*. Chicago: The University of Chicago Press.
- Engler, Russel. 2009. "Connecting self-representation to civil Gideon: What existing data reveal about when counsel is most needed." *Fordham Urban Law Journal* 37(1): 36-92.
- Farrel, M., Glosser, A., & Gardiner, K. 2003. "Child Support and TANF Interaction: Literature Review." Manpower Demonstration Research Corporation. Available at: <https://aspe.hhs.gov/basic-report/child-support-and-tanf-interaction-literature-review-april-2003>.
- Garfinkel, Irwin and Marygold S. Melli. 1990. "The use of normative standards in family law decisions: Developing mathematical standards for child support." *Family Law Quarterly*. 24(2): 157-178.
- Goffman, Alice. 2014. *On the run: Fugitive life in an American city*. Chicago: University of Chicago Press.
- Goldstein, Joshua R. and Kristin Harknett. 2006. "Parenting across racial and class lines: Assortative mating patterns of new parents who are married, cohabiting, dating, or no longer romantically involved." *Social Forces* 85(1): 121-143.

- Government Accounting Office [GAO]. 2011. "Child support enforcement: Departures from long-term trends in sources of collections and caseloads reflect recent economic conditions." Washington, DC. Available at: <http://www.gao.gov/assets/320/314589.pdf>
- Grall, Timothy. 2016. "Custodial mothers and fathers and their child support: 2013." *Current Population Reports, Series P60 – 255*, Washington, DC: U.S. Government Printing Office.
- Guzzo, Karen Benjamin and Frank F. Furstenberg Jr. 2007. "Multipartnered fertility among American men." *Demography* 44(3): 583-601.
- Hamer, Jennifer. 2001. *What it Means to be Daddy: Fatherhood for Black Men Living Away From Their Children*. New York: Columbia University Press.
- Harris, Alexes, Heather Evans and Katherine Beckett. 2010. "Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States." *American Journal of Sociology* 115(6): 1753-1799.
- Harris, Alexis. 2016. *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*. New York: Russel Sage Foundation.
- Harris, Leslie Joan. 2011. "Questioning child support enforcement policy for poor families." *Family Law Quarterly*, 157-172.
- Haskins, Anna R. 2016. "Beyond boys' bad behavior: Paternal incarceration and cognitive development in middle childhood." *Social Forces* 95(2): 861-892.

- Hays, Sharon. 2004. *Flat Broke with Children: Women in the Age of Welfare Reform*. Oxford: Oxford University Press.
- Hays, Sharon. 1996. *The Cultural Contradictions of Motherhood*. New Haven, CT: Yale University Press.
- Huang, C., Mincy, R. B. & Garfinkel, I. (2005). Child support obligations and low-income fathers. *Journal of Marriage and Family* 67(5), 1213-1225.
- Hutson, Ron A. 2007. "Child support and parental conflict in low-income families." *Children and Youth Services Review*, 29, 1142-1157. DOI: 10.1016/j.childyouth.2007.04.004
- Josephson, Jyl J. 1997. *Gender, Families and State: Child Support Policy in the United States*. Lanham, MD: Rowman & Littlefield.
- Kaganas, Felicity and Shelley Day Sclater. 2004. "Contact disputes: Narrative constructions of 'good' parents." *Feminist Legal Studies* 12: 1-27.
- Kane, Jennifer B., Timothy J. Nelson and Kathryn Edin. 2015. "How Much In-kind Support do Low-Income Non-Resident Fathers Provide? A Mixed-Method Analysis." *Journal of Marriage and Family* 77: 591-611.
- Kids Count Data Center. 2017. "Children in single-parent families by race." Annie E. Casey Foundation. Available at: <http://datacenter.kidscount.org/data/bar/107-children-in-single-parent-families-by-race?loc=1&loct=1#1/any/false/573/10,11,9,12,1,185,13/431>

- Laasko, Janice Hassebrock. 2002. "Key determinants of a mother's decision to file for child support." *Families in Society: The Journal of Contemporary Human Services* 83(2): 153-162.
- Lemkuil, Daniel J. and Alyssa P. Lemkuil. 2010. "Confused about contempt? Prosecuting and defending enforcement cases." *University of Texas School of Law – 2010 Parent Child Relationships*.
- Lens, Vicki. 2009. "Confronting government after welfare reform: Moralists, reformers, and narratives of (ir)responsibility at administrative fair hearings." *Law & Society Rev.* 43(3): 563-592.
- Lin, I. Fen and Sara S. McLanahan. 2007. "Parental Beliefs About Nonresident Fathers' Obligations and Rights." *Journal of Marriage and Family* 69(2):382-98.
- Lin, I-Fen. 2000. "Perceived Fairness and Compliance With Child Support Obligations." *Journal of Marriage and Family* 62(2): 388-398.
- Lopoo, Lonard M. and Kerri M. Raissian. 2012. "Natalist Policies in the United States." *Journal of Policy Analysis and Management* 31: 905–946.
- Loprest, Pamela J. 2012. "How has the TANF caseload changed over time?" Urban Institute Research Brief #08, March 2012. Office of Planning, Research, and Evaluation.
- Marks, Loren, and Rob Palkovitz. 2004. "American fatherhood types: The good, the bad, and the uninterested." *Fathering* 2(2): 113-129.

- Massoglia, Michael. 2008. "Incarceration, health, and racial disparities," *Law & Society Rev.* 42(2): 275-306.
- May, Rebecca and Marguerite Roulet. 2005. "A look at arrests of low-income fathers for child support nonpayment: enforcement, court and program practices." *Center for Family Policy and Practice*.
- May, Rebecca. 2004. "The effect of child support and criminal justice systems on low-income non-custodial parents." *Center for Family Policy and Practice*. Available at: [http://www.cffpp.org/publications/CFPP\\_MayChildSup0406b.pdf](http://www.cffpp.org/publications/CFPP_MayChildSup0406b.pdf)
- McCann, Meghan. 2016. "Child support and incarceration." National Conference of State Legislatures. Available at: <http://www.ncsl.org/blog/2016/02/22/child-support-and-incarceration.aspx>
- McCormack, Karen. 2005. "Stratified Reproduction and Poor Women's Resistance." *Gender & Society* 19(5): 660-679.
- McLanahan, Sara. 2004. "Diverging destinies: How children are faring under the second demographic transition." *Demography* 41(4): 607-627.
- Meyer, Daniel R., Maria Cancian, and Kisun Nam. 2007. "Welfare and child support program knowledge gaps reduce program effectiveness." *Journal of Policy Analysis and Management* 26: 575-598.
- Meyer, Daniel R. and Maria Cancian. 2012. "'I'm Not Supporting his Kids': Nonresident Fathers' Contributions Given Mothers' New Fertility." *Journal of Marriage and Family* 74: 132-151.

- Meyer, Daniel R., Maria Cancian, and Steven T. Cook. 2005. "Multi-partner fertility: Incidence and implications for child support policy." *Social Service Review* 79(4): 577-601.
- Mincy, Ronald B. & Elaine J. Sorenson. 1998 "Deadbeats and Turnips in Child Support Reform," *Journal of Policy Analysis and Management* 17(1): 44-51.
- Mnookin, Robert H. 1981. "Review: Using Jail for Child Support Enforcement," *The University of Chicago Law Rev.* 48(2): 338-370.
- Murphy, Jane C. 1991. "Eroding the myth of discretionary justice in family law: The child support experiment." *North Carolina Law Review* 70: 209-242.
- Natalier, Kristin and Belinda Hewitt. 2010. "'It's Not Just About the Money': Non-Resident Fathers' Perspectives on Paying Child Support." *Sociology* 44(3):489-505.
- Natalier, Kristin and Belinda Hewitt. 2014. "Separated parents reproducing and undoing gender through defining legitimate uses of child support." *Gender & Society* 28(6), 904-925.
- Natalier, Kristin. 2012. "Descriptions of loss and resilience among fathers paying child support." *Journal of Family Studies* 18(2-3), 246-255.
- Nelson, Jennifer. 2003. *Women of Color and the Reproductive Rights Movement*. NYU Press.
- Nepomnyaschy, Lenna and Irwin Garfinkel. 2010. "Child Support Enforcement and Father's Contributions to Their Nonmarital Children." *Social Service Review* 84(3):341-80.

Office of Child Support Enforcement [OCSE]. 2014a. "FY 2014 Preliminary Report."

U.S. Department of Health and

Human Services, Administration for Children and Families. Available at:

[http://www.acf.hhs.gov/sites/default/files/programs/css/fy2014\\_preliminary.pdf](http://www.acf.hhs.gov/sites/default/files/programs/css/fy2014_preliminary.pdf).

OCSE. 2014b. "The Story Behind the Numbers: Major Change in who is Owed Child

Support Arrears." U.S. Department of Health and

Human Services, Administration for Children and Families. Available at:

[https://www.acf.hhs.gov/sites/default/files/programs/css/changes\\_in\\_who\\_is\\_owed\\_arrears.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/changes_in_who_is_owed_arrears.pdf)

OCSE. 2004. "Understanding Child Support Debt: A Guide to Exploring Child Support

Debt in Your State." Department of Health and Human Services, Administration

for Children and Families. Available at:

[http://www.acf.hhs.gov/sites/default/files/ocse/dcl\\_04\\_28a.pdf](http://www.acf.hhs.gov/sites/default/files/ocse/dcl_04_28a.pdf)

Office of the Inspector General [OIG]. 2000. "The Establishment of Child Support

Orders for Low Income Non-Custodial Parents." U.S. Department of Health and

Human Services. Available at: [https://oig.hhs.gov/oei/reports/oei-05-99-](https://oig.hhs.gov/oei/reports/oei-05-99-00390.pdf)

[00390.pdf](https://oig.hhs.gov/oei/reports/oei-05-99-00390.pdf)

Orloff, Ann. (1993). Gender and the social rights of citizenship. *American Sociological*

*Review* 58(3): 303-328.

Pager, Devah. 2003. "The Mark of a Criminal Record." *American Journal of Sociology*

108(5): 937-975.

- Patterson, Elizabeth G. 2008. "Civil Contempt and the Indigent Child Support Obligor: The Silent Return of Debtor's Prison." *Cornell Journal of Law and Public Policy* 18: 95-141.
- Perkinson, Robert. 2010. *Texas Tough: The Rise of America's Prison Empire*. New York: Picador.
- Pew Research Center. 2013. "Asian-Americans lead all others in household income." Available at: <http://www.pewresearch.org/daily-number/asian-americans-lead-all-others-in-household-income/>
- Pirog, Maureen A. & Kathleen M. Ziol-Guest. 2006 "Policy Retrospectives - Child Support Enforcement: Programs and Policies, Impacts and Questions," *Journal of Policy Analysis and Management* 25(4): 943-990.
- Reichman, Nancy, Julien O. Teitler, Irwin Garfinkel, and Sara S. McLanahan. 2001. "Fragile Families: Sample and Design." *Children and Youth Services Review* 23(4/5): 303-316.
- Reynolds, Carl, Mary Cowherd, Andy Barbee, Tony Fabelo, Ted Wood, and Jamie Yoon. 2009. "A Framework to Improve How Fines, Fees, Resitution and Child Support are Assessed and Collected from People Convicted of Crimes: Interim Report." *Justice Center: The Council of State Governments*.
- Rich, Lauren M., Irwin Garfinkel, and Qin Gao. 2007. "Child support enforcement policy and unmarried fathers' employment in the underground and regular economies." *Journal of Policy Analysis and Management* 26(4): 791-810.



- Roberts, Paula. 2001. "An ounce of prevention and a pound of cure: Developing state police on the payment of child support arrears by low-income parents." *Center for Law and Social Policy*.
- Schott, Liz, Ladonna Pavetti, and Ife Floyd. 2015. "How states use federal and state funds under the TANF block grant." *Center on Budget and Policy Priorities*. Available at: [http://www.cbpp.org/sites/default/files/atoms/files/4-8-15tanf\\_0.pdf](http://www.cbpp.org/sites/default/files/atoms/files/4-8-15tanf_0.pdf)
- Sinkewicz, Marilyn and Irvin Garfinkel. 2009. "Unwed fathers' ability to pay child support: New estimates accounting for multiple-partner fertility." *Demography* 46(2): 247-263.
- Solomon-Fears, Carmen. 2012. "Analysis of federal-state financing of the child support enforcement program." *Congressional Research Service* RL334422.
- Solomon-Fears, Carmen. 2013a. "Child support: An overview of Census Bureau data on recipients." *Congressional Research Service* RS22499.
- Solomon-Fears, C. 2013b. "Medical child support: Background and current policy." *Congressional Research Service* 7-5700, R43020.
- Solomon-Fears, Carmen, Alison M. Smith, and Carla Berry. 2012. "Child support enforcement: Incarceration as the last resort penalty for nonpayment of support." *The Green Book*. Congressional Research Service 7-5700, R42389.
- Sorenson, Elaine & Chava Zibman. 2001 "Getting to Know Poor Fathers Who Do Not Pay Child Support," *Social Service Rev.* 75(3): 420-435.

- Sorenson, Elaine, Liliana Sousa & Simon Schaner. 2007. "Assessing child support arrears in nine large states and the nation." *The Urban Institute*. Available at: <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/1001242-Assessing-Child-Support-Arrears-in-Nine-Large-States-and-the-Nation.PDF>
- Steffensmeier, Darrell, and Stephen Demuth. 2001. "Ethnicity and judges' sentencing decisions: Hispanic-Black-White Comparisons." *Criminology* 39(1): 145-178.
- Sugie, Naomi F. 2012. "Punishment and Welfare: Paternal Incarceration and Families' Receipt of Public Assistance." *Social Forces* 90(4): 1403-1427.
- Task Force on Indigent Defense. 2007. "Supplemental publication re: The costs and benefits of an indigent defense verification study." *Texas Indigent Defense Commission*. Available at: <http://tidc.texas.gov/media/27395/supplement-to-verification-study-final.pdf>
- Texas Attorney General's Office. 2015. "Frequently asked questions about child support." Available at: [https://www.texasattorneygeneral.gov/files/faq/cs\\_faq.pdf](https://www.texasattorneygeneral.gov/files/faq/cs_faq.pdf)
- Texas Family Code §154.131c. Available at: <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.154.htm>
- Texas Family Code §157.265b. Available at: <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.157.htm#157.103>
- Texas Family Code § 157.266. Available at: <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.157.htm>

- Thomas, Susan L. 1994. "From the culture of poverty to the culture of single motherhood: the new poverty paradigm." *Women & Politics* 14(2): 65-97.
- Turetsky, Vicki. 1998. "You get what you pay for: How federal and state investment decisions affect child support performance." *Center for Law and Social Policy*.
- Turetsky, Vicki. 2005. "What if all the money came home? Welfare cost recovery in the child support program," *Family Court Review* 43(3): 402-414.
- Turner, Kimberly J. and Maureen R. Waller. 2017. "Indebted Relationships: Child Support Arrears and Nonresident Fathers' Involvement with Children." *Journal of Marriage and Family* 79: 24-43.
- Turney, Kristin, and Christopher Wildeman. 2013. "Redefining Relationships: Explaining the Countervailing Consequences of Paternal Incarceration for Parenting." *American Sociological Review* 78(6): 949-979.
- Turney, Kristin. 2011. "Labored love: Examining the link between maternal depression and parenting behaviors." *Social Science Research* 40: 399-415.
- Turney, Kristin. 2014a. "The consequences of paternal incarceration for maternal neglect and harsh parenting." *Social Forces* 92(4): 1607-1636.
- Turney, Kristin. 2014b. "The intergenerational consequences of mass incarceration: Implications for children's co-residence and contact with grandparents." *Social Forces* 93(1): 299-327.

- U.S. Bureau of the Census. 2012a. "Custodial mothers and fathers and their child support: 2011." *Current Population Reports, Series P60 – 240*, Washington, DC: U.S. Government Printing Office.
- U.S. Bureau of the Census. 2012b. "Custodial mothers and fathers and their child support: 2011 detailed tables." Series P60-246. Available at:  
<http://www.census.gov/people/childsupport/data/files/chldsul11.pdf>
- U.S. Department of Health and Human Services Administration for Children and Families [HHS]. 2002. "Chapter Ten: Enforcement of Support Obligations." Pp. 207-310 in *Essentials for Attorneys in Child Support Enforcement*, 3<sup>rd</sup> ed.
- U.S. Department of Justice. 2012. "Citizen's Guide to U.S. Federal Law on Child Support Enforcement: 18 U.S.C. §228." Available at:  
<https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-child-support-enforcement>
- Wacquant, Loic. J. 2009. *Prisons of poverty*. Minneapolis, MN: University of Minnesota Press.
- Wakefield, Sara, and Christopher James Wildeman. 2014. *Children of the prison boom: Mass incarceration and the future of American inequality*. Oxford University Press.
- Waller, Maureen R. 2002. *My Baby's Father: Unmarried Parents and Paternal Responsibility*. Ithaca, NY: Cornell University Press.

- Waller, Maureen R. and Robert Plotnick. 2001. "Effective child support policy for low-income families: Evidence from street level research." *Journal of Policy Analysis and Management* 20(1): 89-110.
- Waquant, Loic. 2009. *Punishing the poor: The neoliberal government of social insecurity*. Durham, NC: Duke University Press.
- Western, Bruce and Christopher Wildeman. 2009. "The Black family and mass incarceration." *The Annals of The American Academy of Political and Social Science*. 221-242.
- Wildeman, Christopher. 2010. "Paternal incarceration and children's physically aggressive behaviors: Evidence from the Fragile Families and Child Wellbeing Study." *Social Forces* 89(1): 285-309.
- Williams, Marian R. 2003. "The effect of pretrial detention on imprisonment decisions." *Criminal Justice Review* 28(2): 299-316.
- Wisconsin Statute § 35.93, Chapter DCF 150, Appendix C. Available at:  
[https://docs.legis.wisconsin.gov/code/admin\\_code/dcf/101\\_199/150\\_c.pdf](https://docs.legis.wisconsin.gov/code/admin_code/dcf/101_199/150_c.pdf)
- Yee, Lucy Marsh. 1979. "What really happens in child support cases: An empirical study of establishment and enforcement of child support orders in the Denver District Court." *Denver Law Journal* 57(1): 21-68.